Legal Department

Nancy B. White
General Counsel - Florida

BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(305) 347-5558

June 17, 2005

Mrs. Blanca S. Bayó
Director, Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 050257-TL: Complaint by BellSouth Telecommunications, Inc., Regarding the Operation of a Telecommunications Company by Miami-Dade County in Violation of Florida Statutes and Commission Rules

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Opposition to Miami-Dade County's Motion to Dismiss, which we ask that you file in the captioned docket

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

Nancy B. White /RN
Nancy B. White

cc: All Parties of Record
Marshall M. Criser III
R. Douglas Lackey

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CERTIFICATE OF SERVICE
Docket No. 050257-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Electronic Mail (w/o exhibits) and Federal Express (w/exhibits) this 17th day of June, 2005 to the following:

Adam Teitzman
Staff Counsel
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
ateitzma@psc.state.fl.us

Robert A. Ginsburg
Miami-Dade County Attorney
David Stephen Hope, Esq.
Assistant County Attorney
Miami-Dade County Attorney's Office
Aviation Division
U.S. Mail Address
P.O. Box 592075 AMF
Miami, Florida 33159-2075
Miami International Airport
Terminal Building
Concourse A, 4th Floor
Miami, FL 33122
Tel. No. (305) 876-7040
Fax No. (305) 876-7294
dhope@miami-airport.com

Jean L. Kiddoo
Joshua M. Bobeck
Danielle C. Burt
Swidler Berlin LLP
3000 K Street, N.W., Ste. 300
Washington, D.C. 20007
Tel. No. (202) 424-7500
Fax. No. (202) 424-7647
jlkiddoo@swidlaw.com
jmbobeck@swidlaw.com
dcburt@swidlaw.com

Nancy B. White /RN
Nancy B. White

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by BellSouth Tele-Communications, Inc., Regarding The Operation of a Telecommunications Company by Miami-Dade County in Violation of Florida Statutes and Commission Rules	)	Docket No. 050257-TL
	)	Dated: June 17, 2005

BELLSOUTH TELECOMMUNICATIONS, INC.'S OPPOSITION TO MIAMI-DADE COUNTY'S MOTION TO DISMISS

BellSouth Telecommunications, Inc. ("BellSouth") submits this Opposition pursuant to Rule 28-106.204(1), Florida Administrative Code, to the Motion to Dismiss filed by Miami-Dade County (the "County"). The Florida Public Service Commission (the "Commission") should deny the County's Motion to Dismiss for the following reasons:

On April 13, 2005, BellSouth filed a Complaint against the County regarding its operation of a telecommunications company at the Miami International Airport ("MIA") by the County in violation of Florida Statutes and Commission rules.

On May 24, 2005, after securing BellSouth's consent to an extension, the County filed an Answer to BellSouth's Complaint. On June 1, 2005, the County filed a Motion to Dismiss BellSouth's Complaint. In its Motion, the County asks the Commission to dismiss BellSouth's Complaint on the basis that (1) BellSouth lacks standing to bring the Complaint and (2) that the County's telecommunications operations at MIA are exempt from Florida law and Commission rules. The County's Motion should be denied.

A. The County's Motion to Dismiss is Procedurally Defective Because it Fails to Meet the Legal Standard for a Motion to Dismiss and Because it is Untimely.

Under Florida law, the purpose of a motion to dismiss is to raise as a question of law the sufficiency of the facts alleged to state a cause of action. Varnes v. Dawkins, 624 So. 2d 349, 350 (Fla. 1st DCA 1993). In order to sustain a motion to dismiss, the moving party must demonstrate that, accepting all allegations in the petition as facially correct, the petition still fails to state a cause of action for which relief can be granted. In re Application for Amendment of Certificates Nos. 359-W and 290-S to Add Territory in Broward County by South Broward Utility, Inc., 95 FPSC 5:339 (1995); Varnes, 624 So. 2d at 350. When "determining the sufficiency of the complaint, the trial court may not look beyond the four corners of the complaint, consider any affirmative defenses raised by the defendant, nor consider any evidence likely to be produced by either side." Id. See also Flye v. Jeffords, 106 So. 2d 229 (1st DCA 1958) (consideration should be confined to the allegations in the petition and the motion). The moving party must specify the grounds for the motion to dismiss, and we must construe all material allegations against the moving party in determining if the petitioner has stated the necessary allegations. Matthews v. Matthews, 122 So. 2d 571 (2nd DCA 1960).

The County's Motion completely fails this standard. First, the County's Motion is not focused on the four corners of BellSouth's Complaint. Instead, the

County relies on evidence in the form of testimony and affidavits attached to its Motion to support dismissal. This is inappropriate.[1]

Second, the Motion is untimely. Rule 28-106.204(2), Florida Administrative Code, requires motions to dismiss to be filed no later than twenty (20) days after service of the petition on a party.[2] BellSouth's Complaint was filed on April 13, 2005, more than five weeks prior to the filing of the County's Motion. For these reasons, alone, the County's Motion should be denied.

B. The County's Motion to Dismiss is Substantively Wrong: BellSouth Stated a Cause of Action, and, as a Substantially Affected Person, Has Standing to Assert the Complaint.

Substantively, BellSouth has stated a cause of action in its Complaint. If the allegations in the Complaint are taken as factually correct, the County is blatantly and intentionally violating Florida law and Commission rules. The County's behavior is both anticompetitive and discriminatory.

Specifically, BellSouth contends in its Complaint that the County is operating as a Shared Tenant Services ("STS") provider without the necessary Certificate of Public Convenience and Necessity ("Certificate") in violation of Florida law. Complaint at pgs. 4-5. In its Complaint, BellSouth showed that the County was aware of the necessity of a Certificate. Complaint at pgs. 6-7. BellSouth further showed that the County is providing telecommunications

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[1] As discussed in Part C, *infra*, BellSouth believes that the County's Motion is essentially a Motion for Summary Final Order inappropriately masquerading as a Motion to Dismiss.

[2] Note that Rule 28-106.204(2), Florida Administrative Code applies to proceedings involving disputed issues of material fact. BellSouth contends that is the character of the instant proceeding, as discussed later in this Opposition.

services to facilities such as hotels, shopping malls, and industrial parks and has not partitioned its trunks with respect to services to restaurants, retail shops or other commercial entities. Id. at 4-7. The County is a competitor of BellSouth in the provision of telecommunications services. Id. at 2. Moreover, the County is using its provision of telecommunications services to generate revenues and profits for the County, not for the safe and efficient transport of passengers and freight through the airport facility. Taking these facts as correct, BellSouth has alleged a valid cause of action against the County, and the Complaint cannot be dismissed.

In addition BellSouth has shown it has standing to bring the Complaint. "Standing under Chapter 120, Florida Statutes . . . is established by statute." Friends of the Everglades, Inc. v. Board of Trustees of the Internal Improvement Trust Fund, 595 So. 2d 186, 189 (Fla. 1st DCA 1992). Section 120.569, Florida Statutes, provides that any substantially affected person may seek a petition or request for hearing.

A party seeking to establish a substantial interest must demonstrate that (1) he will suffer an injury in fact which is of sufficient immediacy to entitle him to a section 120.57 hearing or intervene in proceedings already pending; and (2) his substantial injury is of the type or nature which the proceeding is designed to protect. Friends of the Everglades, Inc., 595 So. 2d at 189; Florida Optometric Assoc. v. Dept. of Professional Regulation, 567 So. 2d 928, 932 (Fla. 1st DCA 1990). As established below, BellSouth satisfies both of these requirements.

As to the first prong of the test, the "immediacy requirement," a party must establish that he or she will suffer an injury in fact. The focus of this requirement is on the degree of the injury. See Agrico Chem. Co. v. Dept. of Environ. Reg., 406 So. 2d 478, 482 (Fla. 1st DCA 1981). Concerns that are speculation or conjecture will not satisfy this requirement. See Agrico Chem. Co., 406 So. 2d at 482. However, Florida courts have determined that economic injury is sufficient to establish standing.

For instance, in Florida State Univ. v. Dann, 400 So. 2d 1304 (Fla. App. 1st DCA 1981), faculty members of Florida State University ("University") challenged the University's establishment of procedures for the award of merit salaries and other pay increases as an invalid rule. The court determined that the faculty members had standing to raise the challenge because the "procedures were likely to have a continuing impact on determination of their annual salaries." Id. Similarly, in Florida Med. Center v. Department Health and Rehab. Services, 484 So. 2d. 1292, 1294 (Fla. 1st DCA 1996), the court determined that a hospital had standing to challenge the Department of Health and Rehabilitative Services' award of certificates of need to competing facilities because the award would affect the hospital's economic interest.

BellSouth's injury in fact includes that BellSouth has an economic interest in the even-handed regulation of telecommunications companies with which it competes. Namely, the Commission has a duty to ensure that all providers of telecommunications services are treated fairly. Section 364.01(4)(g), Florida Statutes. Applying rules of regulation to one provider while failing to enforce the

rules of regulation to a competitor affects the economic interests of BellSouth and its ability to compete. Clearly, BellSouth satisfies the "injury in fact" requirement necessary to establish standing.

The second prong of the standing test, the "zone of interest" requirement, deals with the nature of the injury. Agrico, 406 So. 2d at 482. This requirement limits standing to those persons that the Legislature intended to be protected by the administrative proceeding. The statutes in question define the scope or nature of the proceeding and thus govern the analysis. Friends of the Everglades, Inc., 595 So. 2d at 189. As with the first requirement, BellSouth satisfies this requirement as well.

BellSouth is in the "zone of interest" because it is a telecommunications company whose operations are regulated, in part, by the Commission. Specifically, as a matter of Florida law, BellSouth is required to be certificated by the Commission, to provide access to basic services, and to provide access to 911. Any interpretation of state law by the Commission on the issue of how a competitor is regulated has a substantial affect on BellSouth's ability to compete, as contemplated by the Legislature in granting certain powers to the Commission. Section 364.01, Florida Statutes. For these reasons, BellSouth has standing to bring the instant Complaint. For all of the foregoing reasons, the County's Motion should be rejected.

C. The County's Motion to Dismiss Is Actually an Inappropriate Motion for Summary Final Order

BellSouth believes that the County's Motion is essentially a Motion for Summary Final Order inappropriately masquerading as a Motion to Dismiss. It is well settled that a motion to dismiss is not a substitute for a summary judgment. Combs v. City of Naples, 834 So. 2d 194, 198 (Fla. 2nd DCA 2002) and Consuegra v. Lloyds Underwriters at London, 801 So. 2d 111, 112 (Fla. 2d. DCA 2001). Therefore, the Commission is without discretion to treat the County's Motion as one for summary final order.

In the event the Commission treats the County's Motion as one for summary final order, which BellSouth opposes, BellSouth offers the following:

Rule 28-106.204(4), Florida Administrative Code, provides:

> Any party may move for summary final order whenever there is no genuine issue as to any material fact. The motion may be accompanied by supporting affidavits. All other parties may, within seven days of service, file a response in opposition, with or without supporting affidavits. A party moving for summary final order later than twelve days before the final hearing waives any objection to the continuance of the final hearing.

The purpose of summary judgment or, in this instance, summary final order is to avoid the expense and delay of trial when no dispute exists concerning the material facts. The record is reviewed in the most favorable light toward the party against whom the summary judgment is to be entered. When the movant presents a showing that no material fact on any issue is disputed, the burden shifts to his opponent to demonstrate the falsity of the showing. If the opponent does not do so, summary judgment is proper and should be affirmed.

The question for determination on a motion for summary judgment is the existence or nonexistence of a material factual issue. There are two requisites for granting summary judgment: first, there must be no genuine issue of material fact, and second, one of the parties must be entitled to judgment as a matter of law on the undisputed facts. See Trawick's Florida Practice and Procedure, §25-5, Summary Judgment Generally, Henry P. Trawick, Jr. (1999).

The question is whether the record shows an absence of disputed material facts under the substantive law applicable to the action. To decide the question, the applicable substantive law must be determined and then compared with the facts in the record. If the comparison shows a genuinely disputed material factual issue, summary judgment must be denied, and the court cannot decide the issue. Even though the facts are not disputed, a summary judgment is improper if differing conclusions or inferences can be drawn from the facts. Id.

"Even where the facts are undisputed, issues as to the interpretation of such facts may be such as to preclude the award of summary judgment. Franklin County v. Leisure Properties, Ltd., 430 So. 2d 475, 479 (Fla. 1st DCA 1983). If the record reflects the existence of any issue of material fact, possibility of an issue, or even raises the slightest doubt that an issue might exist, summary judgment is improper. Albelo v. Southern Bell, 682 So. 2d 1126 (Fla. 4th DCA 1996).

Moreover, the Commission has recognized that policy considerations should be taken into account in ruling on a motion for summary final order. By Order No. PSC-98-1538-PCO-WS, issued November 20, 1998, in Docket Nos.

970657-WS and 980261-WS, In Re: Application for Certificates to Operate a Water and Wastewater Utility in Charlotte and Desoto Counties by Lake Suzy Utilities, Inc., and In Re: Application for Amendment of Certificates Nos. 570-W and 496-S To Add Terriority in Charlotte County by Florida Water Services Corporation, the Commission found that:

> We are also aware that a decision on a motion for summary judgment is also necessarily imbued with certain policy considerations, which are even more pronounced when the decision also must take into account the public interest. Because of this Commission's duty to regulate in the public interest, the rights of not only the parties must be considered, but also the rights of the Citizens of the State of Florida are necessarily implicated, and the decision cannot be made in a vacuum. Indeed, even without the interests of the Citizens involved, the courts have recognized that
>
> > the granting of a summary judgment, in most instances, brings a sudden and drastic conclusion to a lawsuit, thus foreclosing the litigant from the benefit of and right to a trial on the merits of his or her claim. . . . It is for this very reason that caution must be exercised in the granting of summary judgment, and the procedural strictures inherent in the Florida Rules of Civil Procedure governing summary judgment must be observed . . . . The procedural strictures are designed to protect the constitutional right of the litigant to a trial on the merits of her or her claim. They are not merely procedural niceties nor technicalities.

In summary, under Florida law, the party moving for summary judgment is required to conclusively demonstrate the nonexistence of an issue of material fact, and every possible inference must be drawn in favor of the party against whom a summary judgment is sought. Green v. CSX Transportation, Inc. 626 So. 2d 974 (Fla. 1st DCA 1993) (citing Wills v. Sears, Roebuck & Co., 351 So. 2d 29 (Fla. 1977.) Furthermore, a summary judgment should not be granted unless

the facts are so crystallized that nothing remains but questions of law. Moore v. Morris, 475 So. 2d 666 (Fla. 1985); City of Clermont, Florida v. Lake City Utility Services, Inc., 760 So. 1123 (Fla. 5th DCA 2000).

D. Disputed Issues of Material Fact Plainly Preclude Dismissal of BellSouth's Complaint

There can be no doubt that disputed issues of material fact exist in this proceeding. As referenced in BellSouth's Complaint filed with the Commission, and acknowledged in the County's Motion, BellSouth previously filed a lawsuit against the County in the Circuit Court for Miami-Dade County, Florida. In the course of the litigation proceedings, BellSouth conducted extensive written discovery and completed several depositions of the County's designated and authorized representatives. The information discovered through these proceedings spawned the need to file the instant action with the Commission. Conversely, the County purposely ignored the information and testimony disclosed in the litigation proceeding in its Motion to Dismiss. Ignoring these facts, however, will not make them go away.

First, the County creates the false impression that its offer and provision of STS to commercial tenants[3] at MIA is limited to four digit dialing interconnection behind the County's PBX. The County contends that its provision of these limited services is not for the purpose of competing, and does not compete, with other telecommunications companies that offer services at MIA – such as BellSouth.

[3] These commercial tenants undisputedly include retail shopping establishments, ice cream shops, restaurants, bars, bookshops, drug stores, the airport hotel, business management companies, aircraft maintenance facilities outside the airport terminal building, and other non-governmental and non-airline facilities. See Miami-Dade Aviation Department's STS Customer Lists attached hereto as Composite Exhibit A.

Instead, the County contends that it provides this limited service to allow for fast communication between tenants at MIA and airport security personnel. Based on this premise, the County concludes that its provision of STS to the commercial tenants at MIA is necessary to ensure the safe and efficient transportation of passengers and freight through the airport facility – thereby falling within the Airport Exemption.[4] See Motion at pg. 5, n. 5, pg. 9, pg. 12, pg. 14, n.17, and p. 24. Nothing could be further from the truth.

Contrary to the County's assertions in its Motion to Dismiss, the County's provision of STS to tenants at MIA is intended to, and does, compete directly with BellSouth and other telecommunications companies that offer similar telecommunications services. The County's purpose is to operate a profitable telecommunications business to generate revenue for the County. In short, the County's purpose is profit, not safety or efficiency.

The deposition testimony of Maurice Jenkins and Pedro Garcia (both employees of the Miami-Dade Aviation Department) unequivocally confirms that the County is seeking to make a profit from its telecommunications business and offers a far greater menu of telecommunications services to tenants at MIA than four digit dialing behind the County's PBX. The County offers local and long

[4] Further, and regardless of this fact, the text of the Airport Exemption Rule requires that the County secure a certificate as an STS provider on the instant case facts. Although the Airport Exemption Rule says that airport shall be exempt from the other STS rules due to the necessity to ensure the safe and efficient transportation of passengers and freight through the airport facility, the Rule goes on to state: "The airport *shall* obtain a certificate as a shared tenant service provider before it provides shared local services to facilities such as hotels, shopping malls and industrial parks." Rule 25-24.580, F.A.C. (emphasis added). As stated in BellSouth's Complaint, the exemption from certification provisions in this Rule simply do not apply to the County, if and to the extent they are consistent with Section 364.339, Fla. Stat. Section 364.339(3)(a) provides that STS provided to government entities pursuant to Section 364.339 are exempt from Section 364.339(1)(b), and the Commission may exempt such entities from any certification requirements imposed by Chapter 364. Here, while the County is a government entity, the County is providing STS to many non-government entities.

distance voice services, data network access, call waiting, call forwarding, voice mail, Caller-ID, and other competitive commercial telecommunications services. See Exhibit B, Deposition of Pedro Garcia dated, May 21, 2003, pgs. 15-16, 28-29, 58-59, and 118-120; Exhibit C, Deposition of Pedro Garcia dated October 28, 2004, pgs. 130-141; Exhibit D, Deposition of Maurice Jenkins dated August 5, 2004, pgs. 73, 100-101, and 178-179.

When asked what the County's goals were in offering these telecommunications services to tenants at MIA, both Jenkins and Garcia admitted that the County's intention is to compete with other telecommunications companies, including BellSouth, for these customers and to earn revenue from the provision of such services. See Exhibit D, Deposition of Maurice Jenkins dated August 5, 2004, pgs. 109, 122-125, 155-156, 165, 169-170; Exhibit B, Deposition of Pedro Garcia dated May 21, 2003 at pgs. 28-29. In fact, litigation counsel for BellSouth specifically asked whether the bottom line is that the County's telecommunications business has a goal of increasing its profitability and making money for the County. In response, Maurice Jenkins unequivocally said, "Yes sir." Exhibit D at p. 165.

Additionally, contrary to the County's position in its Motion, Maurice Jenkins further testified that the County's provision of STS to commercial tenants at MIA does not make the airport a safer place or otherwise help to move freight or passengers more efficiently. See Exhibit D, Deposition of Maurice Jenkins, dated August 5, 2004 at pgs. 123-125 and 165. In fact, the documents prepared by the County in connection with the County Commission's Resolutions

authorizing the County to acquire and operate the telecommunications system and to enter into agreements with customers to provide STS services at MIA make no mention of protecting the safety of passengers or freight as the reason for the acquisition, operation or provision of service. See County Manager's Memorandum dated January 29, 2002 and related Resolution R-31-02 attached hereto as Exhibit E. See County Manager's Memorandum dated September 24, 2002 and related Resolution R-1091-02 attached hereto as Exhibit F.

Conversely, the Marketing Report prepared for the Miami-Dade Aviation Department in connection with the County's acquisition of the telecommunications system at MIA makes clear that the true purpose and goal of acquiring the telecommunications system and offering STS to tenants at MIA was to make money – nothing more and nothing less. A copy of the 2002 Marketing Report is attached hereto as Exhibit G.

Simply stated, the County is not seeking to ensure safety and efficiency in the transportation of passengers and freight through the airport by offering STS to commercial tenants at MIA. Its telecommunications services are also not limited to four digit dialing interconnections behind the County's PBX. Instead, the County is running a full fledged telecommunications company as a business for profit in direct competition with other regulated telecommunications companies, including BellSouth, and it is doing so in violation of Florida's clear statutory and regulatory requirements.

The County further erroneously contends in its Motion to Dismiss that the commercial tenants to which the County offers and provides STS at MIA are not

"facilities such as hotels, shopping malls and industrial parks." Again, however, the County admitted that the types of shops found in the airport are the same types of shops found in a shopping mall, including clothing stores, restaurants, bars, a Sunglass Hut, and other types of retail shops. See Exhibit H Deposition of Pedro Garcia dated December 15, 2004, pgs. 50-53; Exhibit D, Deposition of Maurice Jenkins, dated August 5, 2004, pgs. 129-132. When shown a series of photographs of these retail stores, restaurants, and other commercial tenants at MIA, and asked whether these stores "are basically a mall of shops," Maurice Jenkins stated, "Yes sir." Exhibit D, Deposition of Maurice Jenkins, dated August 5, 2004 at p. 130.

Next, the County erroneously contends that it has continuously operated and provided STS to commercial tenants at MIA in the same manner since the Airport Exemption was first enacted. However, the County has only been the owner and operator of the telecommunications facility at MIA -- and the provider of STS to tenants at MIA -- since February 2002.

Prior to February 2002, as reflected in footnote 6 of BellSouth's Complaint, NextiraOne LLC and its predecessors in interest were the STS providers at the airports. Until February 2002, the County was not a telecommunications company or STS provider subject to the statutory and regulatory requirements applicable to STS Providers under Florida law. Prior to February 2002, all telecommunications services offered and provided to tenants at MIA were owned and operated by private regulated telecommunications companies, including

WilTel, Centel, Williams Communications, and NextiraOne LLC. On this point, Pedro Garcia testified as follows:

> They [NextiraOne] owned all the telephone switches, the wiring, the network equipment. They owned everything and we were basically leasing from them that equipment and we were paying them as customers before the service provision to everybody in the airport, both STS customers and Miami-Dade Aviation Department staff. So as of February of 2002 we concluded negotiations with them to purchase all of that from them and then at that point we became owners of the equipment and, therefore, we were actually the service providers from that point on. Before that it was them. So that at the time it was considered that – perhaps it was explored and, you know, whether we should get a license or not for STS provisioning and so forth.

See Exhibit B, Deposition of Pedro Garcia dated May 21, 2003, at p. 24; See also Exhibit B at pgs. 23-26 and 60-61; Exhibit H, Deposition of Pedro Garcia dated December 15, 2004, pgs. 27-28. Maurice Jenkins also testified that the County did not operate the telecommunications facility at MIA prior to February 2002, and that NextiraOne did. Exhibit D, Deposition of Maurice Jenkins dated August 5, 2004, pgs. 144 and 195-196.

Finally, the County erroneously contends that it has consistently complied with the Commission's regulations and applicable statutory requirements. However, as demonstrated below, the County deliberately disregarded explicit instructions from the Commission's staff who had indicated on two occasions that the County was required to obtain a Certificate to operate as an STS provider for the commercial tenants at MIA. The County, however, never mentions these facts in its Motion to Dismiss.

Specifically, the County failed to inform the Commission that it previously had at least two (2) discussions with Commission staff members in which the

Commission told the County it was required to obtain a Certificate to offer STS to the commercial entities at MIA. Copies of the e-mail communications between the County and Rick Moses of the Commission from 2003 are attached hereto as Composite Exhibit I. Copies of Pedro Garcia's notes of his previous communications with the Commission staff in late 2001 and two County drafts of a completed but never submitted application to the Commission for an STS Certificate are attached hereto as Composite Exhibit J. When asked whether the County's position regarding the need for applying for a Certificate was, in fact, directly contradicted by the PSC's stated instructions as given by Rick Moses, Pedro Garcia said, "Yes." See Exhibit H, Deposition of Pedro Garcia dated December 15, 2004, pgs. 122-123; See also Id. at pgs. 103-108, 111 and 122-126; Exhibit B, Deposition of Pedro Garcia dated May 21, 2003, pgs. 17-20.

Thus, contrary to its Motion to Dismiss, the County knew and conceded that the Commission told the County that it was required to obtain a Certificate to provide STS to airport tenants upon and after its acquisition of the telecommunications system and operations from NextiraOne LLC in February 2002. The County ignored the Commission's instructions. This was a clear and willful violation of the Commission's regulations and of Florida's statutory proscriptions governing STS Providers. Accordingly, it is the County's willful disregard for the Commission's instructions and the County's clear violation of applicable statutory and regulatory requirements that necessitated BellSouth's Complaint – not a nefarious scheme to divert the County's resources from other "more important" issues.

Finally, it cannot go unnoticed that the County invokes the tragedy of September 11, 2001 to justify its disregard for (1) this Commission's regulatory authority and jurisdiction and (2) Florida law. It is undisputed that the events of September 11 increased the security needs and obligations of the County in connection with its operation and management of MIA. However, the need for greater and better security does not authorize the County to avoid the statutory and regulatory obligations applicable to the County's commercial revenue generating telecommunications business operations at MIA.

The sworn testimony of the County's representatives and the County's internal documents conclusively prove that the County's commercial sale of telecommunications services to tenants at MIA is nothing more than a money-making operation for the County which competes with other regulated telecommunications companies, like BellSouth, for customers. The County's offer and provision of STS to airport tenants is thus not to ensure the safe and efficient transportation of passengers and freight through the airport. Moreover, the entities to which the County is offering and providing STS at the airport are undoubtedly "facilities such as hotels, shopping malls and industrial parks" within the meaning of the Airport Exemption Rule, whether or not they are located inside or outside the physical confines of the airport terminal. Thus, the County's STS operations are clearly subject to this Commission's Regulations and

jurisdiction in accordance with Florida Statutes as alleged in BellSouth's Complaint.[5]

WHEREFORE, BellSouth requests that the Commission deny the County's Motion to Dismiss for the reasons set forth herein.

Respectfully submitted this 17th day of June, 2005.

BELLSOUTH TELECOMMUNICATIONS, INC.

NANCY B. WHITE
SHARON R. LIEBMAN
c/o Nancy H. Sims
150 So. Monroe Street, Suite 400
Tallahassee, FL 32301
(305) 347-5570

R. DOUGLAS LACKEY
Suite 4300
675 W. Peachtree St., NE
Atlanta, GA 30375
(404) 335-0747

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[5] BellSouth's Opposition does not contain an exhaustive recitation of the facts that contradict the assertions made by the County in its Motion, but demonstrates that there are disputed issues of material fact.

050257-TL
BellSouth's Opposition to Miami-Dade County's Motion to Dismiss
Exhibit List

Exhibits

A. Miami-Dade Aviation Department's STS Customer Lists

B. Deposition of Pedro Garcia dated May 21, 2003

C. Deposition of Pedro Garcia dated October 28, 2004

D. Deposition of Maurice Jenkins dated August 5, 2004

E. County Manager's Memorandum dated January 29, 2002 and related Resolution R-31-02

F. County Manager's Memorandum dated September 24, 2002 and related Resolution R-1091-02

G. 2002 Marketing Report

H. Deposition of Pedro Garcia dated December 15, 2004

I. Copies of the e-mail communications between the County and Rick Moses of the Commission from 2003

J. Copies of Pedro Garcia's notes of his previous communications with the Commission staff in late 2001 and two County drafts of a completed but never submitted application to the Commission for an STS Certificate

Exhibit A

Exhibit 6
SATS Airport Rental and CUTE Agreements

as of 01-22-02	Airtele Customers (Excluding MDAD)	Customer Number
1	Abatis International	10391420
2	Aces - CUTE & Voice	10338645
3	ADT Securities	10506587
4	AeroMexico	10506587
5	Aeropostal - CUTE &-Voice	10427644
6	Air France - CUTE	10450333
7	Air Jamaica	10518850
8	Air Tran Airways	10354615
9	American Airlines - CUTE & Voice	10363503
10	ASI Baggage	10381496
11	ASIG Miami, Inc.	10377170
12	Aserca Airlines	10519350
13	Atlas Air	10337970
14	AT&T	10344626
15	Avianca - CUTE & Voice	10484758
16	British Airways - CUTE & Voice	10408278
17	Cafe Versailles	10339696
18	Carne Ice Cream Shop	10351663
19	Centers for Disease Control	10396494
20	Cirilio Rodriguez d/b/a Bright Additions	10363032
21	Commodore Aviation	10416024
22	Communitel	10404505
23	Continental Airlines	10421360
24	Copa - CUTE	10494895
25	Cyber Express	10464227
26	Evergreen International	10338837
27	Flagship (American Eagle)	10338283
28	Gray Construction	10497202
29	Gulfstream Airlines	10341784
30	Host Marriott	10406827
31	ICI	10422707
32	Lan Chile - CUTE	10377882
33	Martin Air - CUTE & Voice	10411203
34	Mexicana	10505015
35	Miami Airport Duty Free Joint Venture	10396900
36	Midway Airlines	10506157
37	National Airlines	10477140
38	Polar Air	10345528
39	Sirgany Bencomo	10407537
40	Sita Communications	10459735
41	Smarte Carte	10428523
42	Swiss Air	10462868
43	Taca International	10518491
44	Underground Construction	10514494
45	United Airlines	10342394
46	USDA - Cargo	10344972
47	USDA - Network	10427656
48	USDA - Terminal	10370069
49	USDA - Operations	10517502
50	USDA - Bldg. 100	10518439
51	USDA - Bldg. 701	10518440
52	Varig Brasil - CUTE	10467672
53	Virgin Atlantic - CUTE	10467591
54	Worldwide Concessions	10518818
55	Worldwide Flight Services	10464296
	Expected New Contracts	
	Global Concessions	TBD

EXHIBIT

SATS CUSTOMER LIS _S OF 2/03

AIRLINES	GOVERNMENT AGENCIES	CONCESSIONS/OTHERS	MANAGEMENT COMPANIES
ACES GROUP	CENTER FOR DISEASE CONTROL	ADT	AIRPORT PARKING ASSOCIATES (MEYERS)
AEROMEXICO	TRI-COUNTY COMMUTER RAIL	ASI BAGGAGE	AVIATION CLUB B
AEROPOSTAL	US CUSTOMS	ASIG, MIAMI INC	AVIATION CLUB F
AIR FRANCE	USDA, APHIS	AT&T WIRELESS	CLUB AMERICA TWOV
AIR JAMAICA		CAFÉ VERSAILLES	MIAMI INTERNATIONAL AIRPORT HOTEL
AIR TRAN		CARRIES ICE CREAM	N&KI ENTERPRISES
ALASKAN AIRLINES		COMMUNITEL	NFL MANAGEMENT
AMERICAN AIRLINES		DATO ELECTRIC	QUALITY AIRCRAFT (SKYCAPS)
ASERCA AIRLINES		GLOBAL MIAMI JOINT VENTURE	SHUTTLE SERVICES
ATLAS AIR		GUAVA & JAVA	SIRGANY CENTURY
AVIANCA		HMS HOST	TERMINAL REXALL
BRITISH AIRWAYS		INTERMEDIA COMMUNICATIONS	TOP OF THE PORT
COMMODORE AVIATION		MATRIX SYSTEMS	UNICO
CONTINENTAL AIRLINES		MIAMI DUTY FREE	VISTA BLDG MANAGEMENT
COPA		SIRGANY BENCOMO	
CYBER EXPRESS		SITA	
DUTCH CARIBBEAN AIRLINES		SMARTE CARTE	
EVERGREEN AVIATION		UNDERGROUND CONSTRUCTION	
FLAGSHIP AIRLINES		WORLDWIDE CONCESSIONS	
GULFSTREAM AIRLINES		WORLDWIDE FLIGHT SERVICES	
L			
MARTIN AIR			
MEXICANA			
POLAR AIR CARGO			
SWISS AIR			
TACA INT'L			
TAMPA AIRLINES			
UNITED AIRLINES			
VARIG			
VIRGIN ATLANTIC			

BST1507

Exhibit B

IN THE CIRCUIT COURT OF THE
11th JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION
CASE NO. 02-28688 CA (03)

BELLSOUTH TELECOMMUNICATIONS, INC.,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant.
_____/

2601 South Bayshore Drive
Miami, Florida
May 21, 2003
9:03 a.m.

DEPOSITION OF PEDRO J. GARCIA

Taken before LANCE W. STEINBEISSER, Registered Professional Reporter and Notary Public in and for the State of Florida at Large, pursuant to Notice of Taking Deposition in the above cause.

APPEARANCES:
MITCHELL R. BLOOMBERG, ESQ. and NATALIE CARLOS, ESQ.,
of the firm of ADORNO & YOSS, P.A.
on behalf of the Plaintiff

DAVID STEPHEN HOPE, and
CYNJI A. LEE,
Assistant Miami-Dade County Attorneys
on behalf of the Defendant

Also present:
Sharon R. Liebman, Esq., BellSouth
Jennifer Sasha Kay, Esq., BellSouth

WITNESS	EXAMINATION	PAGE
PEDRO J. GARCIA		
	BY MR. BLOOMBERG	4

EXHIBITS

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(All exhibits are attached hereto.)

(Ms. Carlos and Ms. Lee were not present.)

Thereupon--

PEDRO J. GARCIA

was called as a witness and, after having been first duly sworn, was examined and testified as follows:

- - - - -

DIRECT EXAMINATION

BY MR. BLOOMBERG:

Q. Would you tell me your name, please, sir.

A. Pedro J. Garcia.

Q. What is your occupation?

A. Chief of telecommunications of the Miami-Dade Aviation Department.

Q. How long have you held that position?

A. About two years, give or take a couple months.

Q. How long have you been with the County?

A. About 15 years.

Q. Take me through your positions with the County.

A. I started as a Telecommunications Engineer III which is a senior position. The

responsibilities were to design and project manage telephone systems for county-owned buildings. We did this countywide for the Information Technology Department.

Then I was promoted to -- about four months later I was promoted to the supervisor position for the engineers that did that same kind of work that I was doing, and I basically stayed in that position for the rest of 12 years or so until I came to Miami Aviation Department.

Q. Before you became employed by the County, how were you employed --

A. I worked for BellSouth or Southern Bell.

Q. -- at that time?

A. At the time for about 13 and a half years.

Q. And obviously your educational background is an engineer?

A. I'm an electrical engineer, yes, sir, and I have a professional engineering certification from the State of Florida.

(Ms. Carlos entered the conference room.)

Q. Tell me what your general duties are as chief of the telecommunications department. What's

the correct title?

A. Miami-Dade Aviation Department, MDAD.

Q. Chief of telecommunications?

A. Right.

Q. Tell me what your general duties are.

A. My responsibilities include the telecommunications side, plus. By that I mean the IT, information technology, under Maurice Jenkins, my boss, is divided under two sections, the information systems which is the data application side and then the telecommunications side.

My responsibilities include providing the telephone service, the network connectivity for all the devices and applications, the public address system, maintenance at the airport terminal, what we call the FITS, which is the monitors that you see for the airlines to display their flight information, and also the CUTE which is the Common Used Terminal Equipment, which is the system the airlines use, the common equipment or the common system they use to get the reservations to produce the boarding passes and bag tags and things like that, the wireless equipment, the videos that they use, the radio, 400/800 megahertz, and pagers, beepers, cellular phones for the MDAD

employees, you know, Miami-Dade Aviation employees.

Q. How many people are in your unit, how many people total?

A. About -- I have about 18 people or so reporting to me through two supervisors. But we have a subcontractor, NextiraOne, which has about 36 people employed, and they basically report to us. So it's like an outsource to perform the duties that we don't have the staff to do. They do it for us.

Q. And they report to you?

A. They basically -- yeah, you can -- they report to me.

Q. Through --

A. Basically from me up the ladder.

Q. To whom do you report?

A. I report to Maurice Jenkins who is the manager of the information systems and telecommunications.

Q. Is there somebody on your level on the other side of the department?

A. On the other side of Maurice is Carlos Garcia who is in information systems.

Q. He's at your level?

A. He's my counterpart.

Q. On the information --

A. On the information systems side, right.

Q. And to whom does Maurice report?

A. Maurice reports to an assistant director, Bobbie Phillips.

(Plaintiff's Exhibit 1 was marked for identification.)

BY MR. BLOOMBERG:

Q. Let me show you what's been marked as Exhibit 1 for the purpose of deposition which is the copy of the Notice of Taking Deposition, and as you can see on the front page, it asks for the representative of the County with knowledge about certain areas.

Let me ask you to turn over to Exhibit A which is two pages and ten categories. I would ask you first have you seen that before?

A. Yes.

Q. And you understand that you've been designated by the County as the person who can answer questions in these areas?

A. Yes.

Q. Are there any of these areas, any of these subject matters by which you feel you cannot answer questions?

A. Seven, eight and nine, unless you give me more information, I'm not sure what they mean. I probably can address all the issues depending how deep you go into them. My memory can only go so far.
Q. By the way, what is Mr. Jenkins' background? What is his training, if you know?
A. I think he -- well, he has a Bachelor's Degree from the University of Miami in business administration.
Q. Okay.
A. And to the best of my knowledge, he's been at the airport working on the -- for several years working in the information systems area.
Q. Do you know a person by the name of Guelsys Coplan?
A. Guelsys Coplan, yes.
Q. And who is she?
A. She works -- her supervisor is Maria Perez who reports to me.
Q. So she's a County employee?
A. She's like a customer service representative. Yes, she's a County employee.
Q. And Ben Tevis.
A. Ben Tevis is a supervisor for NextiraOne

in the voice area.
Q. He is an Nextira employee?
A. Right.
Q. Dennis Rochester?
A. Dennis is a technician for NextiraOne in the voice area.
Q. Barbara Blanis? Blanco?
A. Barbara?
Q. Blanis. I can't read my handwriting. Is there a Barbara that works at the airport?
A. Barbara that works with Guelsys Coplan -- she does cellular phones and --
Q. What is her last name, do you know?
A. I know her name. I just --
Q. Barbara Altamira?
A. Altamirano, right.
Q. And she's a County --
A. She's a County employee.
Q. Camillo De Pedro?
A. Pedro De Camillo is the manager for the NextiraOne.
Q. And Maria Perez you told me --
A. Is the supervisor for the customer service unit.
Q. Lorraine C. Jones?

A. Jones, she's another customer service rep.
Q. The same level as Guelsys?
A. Same level as Guelsys.
Q. County employee?
A. County employee.
Q. Henry Sheffield?
A. Henry Sheffield -- it escapes me right now. I don't know exactly all the names of some of the techs in NextiraOne, but he's not a County employee, to my knowledge.
Q. Okay. Ray Delerme?
A. Delerme. He's NextiraOne.
Q. Julio Or --
A. He's a supervisor for NextiraOne.
Q. You mentioned these customer service representatives that work for the County. What do they do, do you know?
A. They receive -- they generate the work orders to do installation for -- and in that needed telephone service, network service. They receive the bills from NextiraOne and they make sure -- the bill's to be made through NextiraOne for work that they perform on our behalf, and they check the bills and they make sure that everything is correct

and they forward it up the ladder for approval. They interface with the users of the airport of services and if they have complaints, they try to resolve them.
Q. All right. Is there some kind of requirement that you're aware that the County -- and I'll use the County or that MDAD have some sort of authorization from the Florida Public Service Commission to provide telecommunications services to people at the airport?
A. There is no explicit authorization that was given from the P.S.C. to the County to provide that service. However, we have interpreted the P.S.C. rulings -- I mean the Florida Statutes that pertain to this area to mean that the airport has a right to provide STS services without any authorization.
Q. So I guess the answer to my question, let me see if I understand your answer, is that the County has decided that they don't need authorization from the P.S.C. --
MR. HOPE: Objection to form.
Q. -- is that correct?
A. The County has interpreted the Florida Statutes as they pertain to this area to mean that

the airports are exempt from any explicit authorization to perform STS services.
Q. What does STS mean?
A. It means Shared Tenant Services.
Q. What does that mean?
A. Which means that provisioning of services -- of telecommunications services to tenants of the airport.
Q. So STS is Shared Tenant Services?
A. Shared Tenant Services.
Q. All right. So back to my question.
Has the County interpreted the Florida law to mean that it does not need explicit authorization from P.S.C.?
A. Yes, sir.
Q. Who, to your knowledge, has made that determination?
A. It was made by the gentleman sitting on my left.
Q. The counsel?
A. The counsel and basically all the management, Maurice Jenkins and the management of the airport and myself.
Q. By the way, does Miami-Dade Aviation Department provide similar services at other

airports within Dade County?
A. The airports that Miami-Dade owns?
Q. Right.
A. Specifically Opa-Locka and Tamiami we provide the same services, and those airports are owned by Miami-Dade County.
Q. Are there any airports within Miami-Dade County within the geographical boundaries of the County that the County does not own?
A. As far as I know, the airports are owned by Miami-Dade County, unless there's an obscure landing strip which I'm not aware of.
Q. And we won't discuss those.
In other words, the County provides these services at every airport it owns --
A. At two of the airports.
Q. At two of the airports.
A. The other two just have independent telephone systems and they're connected to BellSouth for telecommunications. We have a direct correction via T1 to two of those airports in which we provide voice services and network services from MIA connected to the satellite system that they have at those airports.
Q. At Opa-Locka and Tamiami?

A. At Tamiami, right.
Q. By the way, we've discussed already and we've used the phrase telecommunications services, telephone services. What are telephone communications, so we have an understanding? Tell me -- wait. Let me finish.
Tell me how you define the term telecommunications services.
A. The industry itself -- sometimes it's a gray area of what is telecommunications and what is telephone services. To me, as far as this conversation goes, I take telecommunications to mean voice and network transmission. If we're just talking about the voice side, it would be called voice services, telecommunication, both the voice services or the telephone and the network transmission, which is the network that goes where you plug in your PCs.
Q. My e-mails and so forth?
A. That's right.
Q. So you would agree with me, wouldn't you, that the County provides telephone services at these airports?
MR. HOPE: Objection. Form.
A. Yes.

Q. All right. Let me make a point.
There may be two kinds of objections here today.
A. I can -- I didn't hear what you said.
MR. HOPE: I just said objection to form.
Q. Right.
A. That means what?
Q. There are two kinds of objections here at a deposition. One is an objection to the form of the question or other objections where you can go ahead and answer the question. The only time you shouldn't answer the question is if your lawyer says I object for whatever reason, don't answer the question.
A. Okay.
Q. If he just objects, he's objecting to preserve the record.
A. Okay. So can you repeat the question?
Q. I'll repeat the question.
Does the County provide telephone services to customers at airports in Dade County?
A. Yes, sir.
Q. Does the County provide telecommunications services, using your definition,

to customers at airports within Dade County?
A. Yes, sir.
Q. Has your department had any communications with the Public Service Commission about the requirement or nonrequirement of receiving authorization from the Public Service Commission to provide such services?
A. We had some communication in the sense of we started the process to obtain an STS license from the Public Service Commission on behalf of the airport to provide those services and then the process was never completed.
(Plaintiff's Exhibit 2 was marked for identification.)
BY MR. BLOOMBERG:
Q. Let me show you what's been marked as Plaintiff's Exhibit No. 2 for the purposes of the deposition and ask if you recognize that document.
A. Yes.
Q. What is it, please?
A. This is a -- seems to be a list of the tenants at the airport that we provide services to --
Q. Okay. And --
A. -- telecommunications services or either

voice or data or both.
Q. And it's attached to an e-mail what appears to be an e-mail from Pedro Garcia to rmoses@psc.state.fl.us; correct?
A. Yes.
Q. Did you prepare that list?
A. This is a form that we keep. Obviously we need to know who our customers are, and there was a request by Mr. Moses to comply with.
Q. And you responded to Mr. Moses?
A. We responded.
(Plaintiff's Exhibit 3 was marked for identification.)
BY MR. BLOOMBERG:
Q. And the request, if you take a look at Exhibit 3, ask you first tell me whether you recognize Exhibit 3.
A. Okay.
Q. Do you recognize Exhibit 3?
A. Yes.
Q. Is Exhibit 3 Mr. Moses' request for that information, a customer list?
A. Yes, I believe this was the -- yes, this was a request they sent us.
Q. All right. Now Mr. Moses' request,

Exhibit 3, the second paragraph of the request, Mr. Moses' e-mail says therefore, any services provided to entities such as concessions stands, restaurants or hotels would be outside of the exemption, and certification would be required before telephone service can be provided.
Do you see that?
A. Yes.
Q. If you look at Exhibit 2, are there any concessions stands to whom the County provides telephone services or offers telephone services?
A. Yes, there's some -- there seems to be some concessions here.
Q. Okay. Cafe Versailles, the ice cream place --
A. Cafe Versailles, Duty-Free, et cetera.
Q. Those would clearly not be airlines?
A. That's right.
Q. Did you have a discussion with Mr. Moses at any time or anybody with the P.S.C. concerning the P.S.C.'s position that concessions stands, restaurants, hotels would need your certification before you could provide telecommunications services to those entities?
A. No, we did not.

Q. You just felt he was wrong?
A. No. He requested from us a list of entities, and we provided that.
Q. These two e-mails, was that the sum and substance of the communication?
A. As far as I remember, that was it.
Q. And you mentioned the process of applying. Was that before or after these e-mails?
A. This was, like, two years ago. It was at the beginning when I started working for the aviation department.
Q. Were you personally involved in any discussions concerning whether or not there was a certification requirement from the P.S.C.?
A. Yes, we had conversations, Maurice Jenkins and counsel and other people.
Q. And you were involved in some of those conversations?
A. Yes.
Q. Do you agree or do you disagree with Mr. Moses' statement in his e-mail that services provided to entities such as concessions stands, restaurants or hotels would be outside of the exemption, and certification would be required?
A. I think this is a -- I read the Florida

Statutes, and this is an interpretation of Mr. Moses as to the Florida Statute intent, and I respect his opinion, but it's not what the Florida Statutes verbatim, what it says.

Q. Have you had the opportunity to review and read at any time the Florida Administrative Code?

A. I'm not sure about that name. I don't -- it doesn't ring a bell to me.

Q. Let's mark that as Exhibit 4, please.

(Plaintiff's Exhibit 4 was marked for identification.)

BY MR. BLOOMBERG:

Q. Let me show you what's been marked as Plaintiff's Exhibit No. 4 for the purposes of the deposition which is a copy of the Florida Administrative Code, Annotated, Chapter 25-24 and ask have you ever seen that before?

A. Yes, sir.

Q. Is that one of the things you looked at?

A. Yes.

Q. And do you have any training as a lawyer?

A. Any what?

Q. Training as a lawyer.

A. No, sir.

Q. Now, the first sentence of this regulation says that airports are -- essentially I'm paraphrasing -- airports are exempt from other STS rules due to the necessity to ensure safe and effective transportation of passengers and freight; fair paraphrase?

A. Yes.

Q. The second sentence says the airport shall obtain a certificate as a shared tenant service provider before it provides shared local services to facilities such as hotels, shopping malls and industrial parks.

Do you see that?

A. Yes, I see it.

Q. And are you providing facilities, shared local services to facilities such as hotels, shops and so forth?

A. We're not providing service to any shopping malls.

Q. Hotels?

A. We're providing service to hotels -- there's a management company that manages the hotel and it's a pass-through situation. We're not making any profit from that.

Q. So is that why you determined you don't need a certificate?

A. It was determined that we didn't need a certificate based on the overall interpretation of this paragraph. We're now providing services within the airport. We're not going outside to shopping malls or to outside hotels or any outside the airport property, which belongs to Miami-Dade County.

Q. And the hotel belongs to whom?

A. The hotel building belongs to Miami-Dade County, and we have a management company managing the operation.

Q. You mentioned that you started the process of applying for a certificate at some point?

A. Yes, sir.

Q. Who decided to apply? Who decided you needed to apply?

A. I don't believe it was anybody in particular. It was something that it was just decided to -- let's do it -- at the time we were engaged in purchasing the infrastructure from the service provider NextiraOne which was -- they were the owners of all the infrastructure at the time.

That was three years ago.

They owned all the telephone switches, the wiring, the network equipment. They owned everything and we were basically leasing from them that equipment and we were paying them as customers before the service provision to everybody in the airport, both STS customers and Miami-Dade Aviation Department staff.

So as of February of 2002 we concluded negotiations with them to purchase all of that from them and then at that point we became owners of the equipment and, therefore, we were actually the service providers from that point on. Before that it was them. So that at the time it was considered that -- perhaps it was explored and, you know, whether we should get a license or not for STS provisioning and so forth.

Q. So as I understand it, before the sale, the Nextira sale, the decision was that Nextira was -- actually the County's perspective was that Nextira was the service provider?

MR. HOPE: Objection.

A. Not from the County's perspective. It was the service provider.

Q. So therefore, you did not need a

certificate?
A. We were not providing the services.
Q. Now the County is providing the services; is that correct?
A. Now the County, yes, is providing the equipment. We own the equipment.
Q. You own the equipment and Nextira is a subcontractor?
A. Is a subcontractor.
Q. Is it still your position now that the County does not need a certificate?
A. It was -- the position of the Miami-Dade Aviation Department at this time is that the airport is exempt from obtaining a certificate.
Q. All aspects, regardless of who the end-user is, the airport is exempt from obtaining a certificate; is that correct?
MR. HOPE: Objection to form.
A. It's exempt because the tenants are located in the airport property and the airport belongs to Miami-Dade County. We're not going outside those boundaries.
Q. Now, do the tenants use the phones, for example, to make calls outside?
A. Through BellSouth lines, yes. In other

words, we buy services from BellSouth to go into a public network. The minute the connection goes to outside the airport to the public network, that is services provided by BellSouth and another carrier.
Q. Correct, but the County bills for those services?
MR. HOPE: Objection to form.
A. We get billed by BellSouth and then we in turn bill --
Q. The customer?
A. -- the customer.
Q. Attached to Exhibit -- David has it.
MR. HOPE: 2.
Q. The customer list, Exhibit 2, that's as of February 3rd -- February of 2003?
A. Um-hum.
Q. To your knowledge, is that list accurate today or has it changed?
A. To my knowledge, it was accurate at the time it was published. Since then some people have gone out of business and we may have added a couple more people -- more customers but, you know, it's pretty much --
Q. Would you know, for example, by looking at this list who's out of business or who's been

added?
A. No, not right off the top of --
Q. The list has what I would call four categories; is that airlines, government agencies, concessions/others, management companies.
Is that the way the County maintains a list of its customers, in those categories?
A. This is the list. We don't have any other way to maintain it. This is just for our own differentiation, if you want to call it that, of the different types of people that we serve.
Q. And are the same telecommunications services available to all of the customers; regardless of whether they buy them all, are they all available?
A. Yes, sir.
Q. Are all the services available?
A. Yes, sir, they are all available. Not all of them use the services.
Q. Right. I could pick services 12 and 4 and somebody else could pick 23 and 5?
A. Yes.
Q. But they're all available to everybody?
A. Yes.
(Plaintiff's Composite Exhibit 5 was

marked for identification.)
BY MR. BLOOMBERG:
Q. Are tenants of the airport required to purchase any telecommunications services from the County?
A. No, sir.
Q. They're free to go anywhere they want to?
A. They're free to go anywhere they want to.
Q. And if they go somewhere else, they wouldn't use the County facilities?
A. That's correct.
Q. So would it be fair to say that the County is in competition with other telecommunication providers at the airport?
MR. HOPE: Objection to form.
A. We -- yes, we are basically there to provide them services, if they want us to provide them services. If not, they go to any company they want.
Q. Right. And the County charges for these services?
A. Not if they go to another company.
Q. If they go to the County --

A. If they go to the County, we charge them just like BellSouth would charge them for the services.
Q. The County engages in the business, so to speak --
A. Yes, sir.
Q. -- attempting a profit-making enterprise?
MR. HOPE: Objection to form.
A. Yes, sir.
Q. At least you hope it is?
A. We're losing money right now, but we're hoping to make money.
Q. Like lots of people.
Let me show Composite Exhibit 5 for purposes of the deposition which is a series of papers that were produced by the County on a response to a request for production.
Let me first ask you to take a look at the staff and we'll go through them and find out what you know about them.
A. Are we going to take this one by one?
Q. Probably.
A. Okay.
Q. Looking at the first page which bears a

number at the bottom of 000001, can you tell me what that is? Do you recognize that handwriting?
A. It is my handwriting.
Q. Oh, good.
A. I was in contact as part of that process of discovery, if you want to, whether we needed a license or not to be an STS provider, we were in touch with Al Robinson, which is the IT counterpart -- my boss' counterpart -- no, I'm sorry, he's my counterpart at the Orlando Airport and he -- according to his information, he was involved in a lengthy process to determine exactly the same thing, whether Orlando should get a license or not to provide STS services, and he had attended many meetings with the Public Service Commission and other entities, and he was one -- his opinion on the matter when I talked to him was that we did not need a license just as Orlando did not need a license and they're providing services to tenants of the Orlando Airport, including shops and things located within the airport.
Q. All right. So he reached that conclusion?
A. He reached -- I don't know how he -- whether he reached the conclusion or somebody at

the P.S.C. alone reached that conclusion. As I said, he was actually more involved than we were with the P.S.C. in these matters.
Q. But he told you that Orlando --
A. Right.
Q. -- had reached a conclusion --
A. Right, that Orlando was providing services without any licensing requirements.
Q. And at the top of the page is a date 12/10/01, presumably the date you spoke with you him or the --
A. This was, right.
Q. These are your notes from a conversation with Mr. Robinson?
A. I try to date every paper I write on so I know.
Q. It's a good practice.
And 25.4 which is 25.4 public law --
A. It's probably the Florida Statute paragraph. I imagine that's what it is. I don't recall it.
Q. The next page which has the number 000003 on the bottom appears to be a fax cover sheet to Myra Bustamonte.
Is that from you?

A. Yes, that's my handwriting.
Q. Do you recall when you sent this?
A. No, I don't recall.
Q. Down the Page 0002, which is the fourth page of the exhibit, do you recognize that handwriting?
A. Yes, that's mine.
Q. And what is that? What are those notes from?
A. This seems to be a part of the process that we were going through when we were trying to purchase the Nextira's equipment and infrastructure in order to also become the owners of all the infrastructure.
Q. Would these notes in point of time be after the notes of your conversation with Mr. Robinson, to the best of your recollection?
A. It's hard to say because this is December '01 and we were involved in this process with NextiraOne probably for a good six months before February of 2002.
Q. All right. Now obviously there are references to the P.S.C. on this particular page?
A. But the reasons I stated before was that Nextira was the provider of the service and now

we're engaged in buying the infrastructure so we will become the providers of the service. So obviously that was one of the questions that needed resolution.

Q. As I understand it, in light of the fact that the County was going to be the service provider, you had to make a decision whether the County now because of the change in circumstances needed to obtain a P.S.C. certification?

MR. HOPE: Objection to form.

A. That's right.

Q. Now go to the page that starts with No. 6. It appears to be a series of pages that contain a draft of an application.

A. Yes, I remember this.

Q. Who was in charge for your department of that process of filling out this paperwork?

A. In charge is -- I'm not sure who was in charge. I'm not sure at this time there was nobody in charge. It was just a process that the application was requested. I'm not sure who did it. It could have been me or somebody else. This is not my handwriting. It looks like one of my -- Maria Perez, the supervisor that worked for me, but it was just basically a draft of how to fill the

application and what information was going to be required and to start the process.

Q. And that handwritten draft goes from Page 6 to Page 16?

A. 16, right.

Q. And Page 17, whose handwriting is that?

A. That's mine.

Q. All right. And that's dated 10/26/01?

A. Um-hum.

Q. What are those notes of?

A. These are -- these are my notes. Looks like putting down a conversation that I had with some gentleman that the name's above.

Q. And I guess the paragraph below the names, does that paragraph recognize distinction between public transportation and hotels and shops, et cetera? What was the purpose of putting that document --

A. This is what this -- one of these people that I spoke to, and I don't know what their titles are or what their -- you know, whether they have the authority to interpret, but this is what they told me as far as the subject matter.

Q. The third name is that fella Moses who the e-mail is from?

A. Yes.

Q. And you wrote down MIA is going to provide service not related to public transportation (hotels, shops, et cetera). We need to file applications.

A. Obviously somebody -- one of these three people made that statement and I wrote it down.

Q. Right. You wrote it down and that's consistent with, as you understand, at least the language of the Florida Statute?

A. Not necessarily.

Q. Okay.

A. Again, we're interpreting it -- if it's not in the -- in the airport -- outside the airport property, you can have a hotel half a block away or a shopping mall half a block away. That's what the interpretation is that we have given this.

Q. Do you know why -- I don't know if you can answer the question, but what is significant or not significant about filing the application? Would there have been a problem to file the application?

MR. HOPE: Objection to form.

A. Just -- it's just more time wasted that we don't have.

Q. Well, did you ever fill out an application?

A. Well, to the extent you saw the exhibit, the previous exhibit.

Q. All right. Let me ask you to go to the next page which is -- I'm sorry -- the page that starts with 20.

A. Okay.

Q. It appears to be a typed version of the application, is it not?

A. Yes.

Q. So you actually went and filled out the application?

MR. HOPE: Objection to form.

Q. The department actually filled out the application?

A. We filled out -- it seems to be the typed version. Without reading every page, I can't tell you. But yes, we did type out the application. It was an attempt to file the application.

Q. But never filed it?

A. Right.

Q. Was there somebody within the department or somewhere else within the County, to your

knowledge, who made the ultimate decision that said we are not filing this application? And if it was, who was it?

A. The decision was made not to file it? I don't know exactly who -- whose decision was it. It was communicated to me that we're not filing it or the airport wasn't filing it, and that was the extent of that.

Q. Who communicated that to you?

A. I don't recall who communicated it to me.

Q. During the process in which there were discussions about whether or not to file the application, who did you talk to about that subject matter?

A. I talked to my boss Maurice Jenkins, I talked to counsel, I talked to -- you mean as far as within the airport department?

Q. Right, within the decision-making group.

A. I think that's basically it, as far as me up. From me down it's -- you know, I discussed it with the person that filled out the draft. But basically it was just a discussion with my boss and counsel.

Q. But you don't know who actually made the

ultimate decision?

A. No, sir. For what it's worth, I do recall that the opinions of the process that Orlando Airport went through has some weight that I communicated to -- with people involved in the discussion at MDAD as far as not requiring a license.

Q. Right.

You were sort of the investigator --

A. Right.

Q. -- and found out information --

A. I was putting together the information --

Q. -- and passed that on?

A. Passed it to the higher authority to make a decision one way or the other.

Q. Do you know of any airports within the state that have actually made application?

A. I believe I spoke to the folks at the Tampa Airport, and they told me that they had applied but they were not providing the services. So they really didn't know -- they didn't seem to be very knowledgeable about the whole thing.

Q. Any other airports, to your knowledge?

A. Those are the only two that I really had

contact with. As I said, the Orlando folks seemed to be very knowledgeable about the process. They had been in it for a while and they were deep into --

Q. Have you had any communications with the Public Service Commission since your e-mail to Mr. Moses back in March?

A. No, sir.

Q. Verbal? Any verbal communications?

A. None that I recall, no.

Q. Do you know if Mr. Jenkins has had any contact or discussions with the Public Service Commission since mid-March of 2003?

A. I'm not aware of any, but then he doesn't tell me everything.

Q. Nobody's told you that?

A. Right.

Q. You can put that packet away, fold it up.

Are there any other entities, to your knowledge, individuals or entities that provide telecommunications services to tenants at the airports within the County?

A. Define entities. You mean other companies?

Q. Other companies, yes, businesses.

A. Sure. There are many.

Q. Who?

A. BellSouth, MCI, there's -- we're not -- the tenants do not let us know who do they do business with as far as provisioning their telecommunication services. So they could be almost anybody providing services.

Q. The ones you provide services you know you provide service to?

A. Right.

Q. But you don't know who provide services to the other --

A. Yes.

Q. But you do know there are other entities out there that provide services?

A. Yes. Within their leasehold, they can get services from anybody they want to. They don't even have to tell us who.

Q. Would you classify those services as services similar to those that the County provides?

MR. HOPE: Objection to form.

A. I cannot really tell whether the services are -- you can say similar. They may or may not -- they may be more or less what we

provided but they're of the same nature.
Q. Right, voice and voice network.
A. Voice and network, right.
Q. Does the County compete with these other entities for the business out there?
A. Yes, sir.
Q. Are you aware of situations where a potential customer of the County chose to go with BellSouth or MCI or some other entity?
A. Yes, sir.
Q. And they've told the County we're going elsewhere?
A. They don't tell us. They just do it. Most of the time before they even come to the airport they've already made plans to go with somebody else.
(Plaintiff's Exhibit 6 was marked for identification.)
BY MR. BLOOMBERG:
Q. Let me show you what's been marked as Exhibit 6 for the purposes of the deposition and ask you first if you can tell me what it is.
A. It looks like a work order cover sheet -- a work order, work description, the work order.

Q. I mean it's a form that's used by the County?
A. Yeah, it's used by NexiraOne basically to transmit the work order information to perform work for the tenants or communicate with us for that.
Q. Up at the top it says work order processor-TSR remarks. Do you know what TSR means?
A. TSR number, I don't really know what that stands for, but it's just a number of the work order. It could be just the name of the system that produces this.
Q. It's an identifying number of some sort?
A. An identifying number for the work order.
Q. Down in the remarks it says cancel as per Holly. Do you know somebody by the name of Holly out there?
A. Holly is the person who works for NextiraOne and she's the one -- the person that does the marketing to get customers to come to our -- to provide -- to let us provide the services.
Q. This one says cancel as per Holly, customer opted to use BellSouth?

A. Right.
Q. Which would indicate to you that this particular customer, and we don't know who it is, it's been redacted, but has chose to use BellSouth as its provider as opposed to the County?
A. That's right.
Q. Below that it says provide quote, install one analog line in room -- whatever the room number is. Analog line is a voice line?
A. What happens is everything that NextiraOne does for us, they require permission, which is a work order to do whatever.
Q. Permission from whom?
A. From MDAD, from the aviation department. They work for us. We pay them for this.
Q. Okay.
A. So this was a work order that was issued, seems like, for them to provide -- to go out to the customer and provide a quote. Sometimes you need to install a wire or do some work to provide the service.
So she went ahead and tried to give this customer a quote, whoever the customer was, and when she got there the customer had already made arrangements for BellSouth to provide the service.

So this is just basically cancelling the work order.
Q. So in this case BellSouth was apparently providing a similar service?
A. The customer picked BellSouth as a service provider which is the same service we could have provided.
MR. HOPE: Objection to form.
(Plaintiff's Exhibit 7 was marked for identification.)
BY MR. BLOOMBERG:
Q. Let me show you what's been marked as Exhibit 7 for the purposes of deposition and ask if you recognize that document.
A. Okay.
Q. Have you seen it before?
A. I'm sure I have.
Q. What is it?
A. It seems to be telling the customer -- the tenants of the airport about services that would be provided in addition to the ones that were provided before.
Q. Now, is there a change in services -- I know there was a change with Nextira in February 2002. Was there a change in services

provided after the 2002 agreement?
A. Not really. All we did was take over their operations. Whatever services they were provided before, we were going to provide. However, STS, as we see it, is not only services that Nextira provides. We're calling basically STS anything that the airport can provide, even outside the telecommunications arena.
They may need what they call a FIDS monitor to provide flight information and things like that in their back office and we -- the airport -- to provide service to all the airlines and everybody, unless there -- we can provide anything they want at a price.
Q. Okay.
A. I think it's our responsibility and also the way to --
Q. Make money?
A. -- get some money for the airport.
Q. Right.
The MDAD is in the telecommunications business?
MR. HOPE: Objection to form.
A. MDAD is in the business of lowering the landing fees to the airlines as much as possible by

producing revenue in any way we can.
Q. To the County?
A. To the County.
Q. Making money without taxing people?
A. Yes, that's right.
(Plaintiff's Exhibit 8 was marked for identification.)
BY MR. BLOOMBERG:
Q. Did the County or MDAD or anybody prepare a marketing plan?
A. Yes. We requested from NextiraOne after we purchased their infrastructure that they would prepare a marketing plan on our behalf.
Q. To go out and market to tenants of the airport --
A. Yes.
Q. -- airports?
A. Um-hum.
Q. Let me show you what's been marked as Plaintiff's Exhibit No. 8 and ask you if that is a copy of the marketing plan.
A. Yes.
Q. And the first page there's handwriting on it. Do you recognize the handwriting?
A. This is my boss' handwriting.

Q. Both of them? Both the page to Simone --
A. Yeah, Simone is his secretary and Pedro is me, so he was writing notes to discuss this with me. He wasn't happy with it.
Q. If you sort of skim the pages, you'll see some handwritten notes or some handwritten comments. Is all of that handwriting Mr. Jenkins' handwriting, to your knowledge?
A. It looks like it is, yes.
Q. If you go to Page 7 of the report which bears the number 000165 on the bottom, Section 2.2.1 Strengths, it says knowledge. Our competitors are Reeboks, and then the handwritten note, Regional Bell Operating Company --
A. RBOX.
Q. RBOX, Reeboks --
A. That's an industry thing.
Q. You're right. Regional Bell Operating Companies, whose handwriting is that? Is that Mr. Jenkins', to your knowledge?
A. That could have been me just to clarify what the name meant.
Q. And BellSouth is one of those RBOX; correct?

A. Yes, sir.
Q. So then this marketing plan acknowledges, does it not, that BellSouth and MDAD are competitors in this venture or in this business?
A. Correct. Actually, this term is out of date. The person that wrote this is talking like some many years back.
Q. Right.
A. The correct term is --
Q. Right.
A. But it means that.
Q. BellSouth?
A. BellSouth or any other service provider.
Q. Are you familiar with it as it relates to what's going on at the airport? Are you familiar with the Miami-Dade County, Florida Home Amendment Charter as it relates to the operation of this kind of this business? Have you ever looked at it?
A. As it refers to the operation of the airport?
Q. The telecommunications business at the airport.
A. No, I can't say that I'm --

(Plaintiff's Exhibit 9 was marked for identification.)
BY MR. BLOOMBERG:
Q. Let me show you what's been marked as Exhibit 9 for purposes of the deposition and ask you to turn to what would be Page 17 of that -- no, I'm sorry -- Page 17, the bottom of Page 17, No. 14 on that page -- actually, I'm sorry, you've got to go to Page 16, Section 101 first.
MR. HOPE: Could we just go off the record for a second.
MR. BLOOMBERG: Sure.
(Discussion off the record)
(A break was taken.)
BY MR. BLOOMBERG:
Q. Start at Page 16, 101, Subparagraph A, the powers. And then turn over to Page 17, No. 14, at the bottom of the page. And if you would read that for me.
A. Regulate control --
Q. To yourself.
And then if you go over to, I guess, sub B on Page 18 --
A. Right.
Q. -- which is the one in the bracket, if

you would read that to yourself.
A. Okay.
Q. Are you familiar with those provisions at all?
A. I have seen this paragraph before.
Q. Paragraph B?
A. Yes.
Q. Where did you see it before?
A. I've seen it in some of the correspondence.
Q. All right.
A. It looks familiar to me. That's what I'm saying.
Q. Were you ever asked by anybody to offer opinions concerning the meaning of subparagraph B and how it affected or how it impacted on what MDAD was doing at the airports?
A. No, sir.
Q. As the person involved and the chief of the telecommunications unit, is MDAD operating a telephone utility at the airport?
A. It's operating -- it's providing telephone services at a County-owned facility.
Q. Is it a telephone utility?
A. The word utility, it's -- I'm not sure

that it applies. Is every vendor that provides services a utility? I'm not sure that definition is correct.
Q. How would you define telephone utility as somebody who's been in this business --
A. It's a regular entity like Florida Power & Light, the water company, which is the way BellSouth used to be. It still is a carrier preference. I mean BellSouth has some rights and duties different than any other vendor because it's still the carrier of last resort. They have to provide phones and ground lines to the corner even though it takes a lot of money to run the wire and not make money out of it. Nobody is forced to do that except BellSouth.
So BellSouth in that sense, the way I interpret it, is a utility or maybe the way everybody interprets it. And just like the power company and so forth because they're regulated. And we're not regulated in that sense and neither are the other vendors who provide those services.
Q. Now other vendors are regulated, also; correct?
A. Not the other vendors, no. BellSouth is; the other vendors are not.

Q. MCI is not regulated?
A. Not to the extent that BellSouth is.
Q. Not at all?
A. Well, I don't know what you call regulation. I'm saying not to the extent that BellSouth is regulated. I don't consider MCI a utility, but I consider BellSouth a utility. But that's just me.
Q. Now, if the County -- I realize this is a hypothetical -- but if the County had made the determination that it had to submit the application to the Public Service Commission, if you had made that determination when you had those discussions, would you consider the County a utility?
A. No, sir.
MR. HOPE: Objection to form.
Q. Even though it was regulated, you wouldn't consider it a utility?
MR. HOPE: Objection to form.
A. That's not a regulation. That's just the license to perform the duties.
MR. HOPE: Objection to form.
Q. All right. Just to make sure that I understand your distinction, BellSouth is a utility, is the only telephone utility in the state

of Florida or at least within this region because it is --
A. There's 29, I believe.
Q. 29 what?
A. Utilities in the state of Florida as far as BellSouth.
Q. Because of the scope of regulation?
A. Because they're the carrier of last resort in the area in which they serve.
Q. Do you have any idea why the charter uses the phrase the County shall not operate a telephone utility? I realize you didn't draft the charter provision, but have you ever had a discussion with anybody as to why that phrase is there?
MR. HOPE: Objection to form.
A. I have no idea why that's there.
Q. Correct me if I'm wrong, we've already gone through the fact that apparently it may not be the exact same service, but BellSouth, for example, offers similar services to tenants at the airport?
MR. HOPE: Objection to form.
A. We provide services to the tenants of the airport which is a County-owned facility.
Q. I'm just asking if BellSouth offers

similar service to those tenants.
A. Yes, they do.
Q. And is the airport a territory in the County?
A. The airport is a County-owned facility. That's a legal interpretation. I don't believe we consider the airport to be a territory. It's a County-owned building or facility. I'm not an attorney. Again, my opinion. But if you ask my opinion, I would consider territory a neighborhood, West Miami, Coral Gables; those are territories.
A County-owned facility, I don't consider that to be a territory, but that's my interpretation.
Q. Why not?
A. Why not? It's just the definition that -- the meaning that I attach to the word.
Q. What meaning do you attach to the word territory?
A. A territory is a more -- it's not something that you own. It's something that is owned collectively by other folks, collectively or independently, and there are certain amounts of legal control over that territory but that's -- the Miami International Airport is an owned facility by

the County. We don't own Coral Gables, the County doesn't own West Miami, but they own the Miami International Airport.
And if I could go further, I would probably say the intent of this was basically to reassure the utilities that we would not complete, we meaning by Miami-Dade County will not compete with them to provide services to neighborhoods and other neighborhoods that would be competing with them.
Q. Miami International Airport is within the physical geographic boundaries of Miami-Dade County; is that a fair statement?
A. Yes, sir.
Q. As are the two other airports, Tamiami and Opa-Locka, to which the County provides similar services?
A. Yes.
Q. Does the County provide telephone services at other locations, to your knowledge, within the geographical boundaries of Miami-Dade County?
A. Miami-Dade County has telephone equipment and network equipment similar to what's in at the Miami International Airport only in

County-owned facilities.
The County does not provide services to buildings and -- or -- that have nothing to do -- or tenants that have nothing to do with the government operation.
Q. Correct me if I'm wrong, are those facilities serving the County itself?
A. It's serving the County employees.
Q. The County employees?
A. And by the way -- and then we'll connect to BellSouth for the outside --
Q. I understand that. But what I'm asking you is other than at the airports, does the County provide telephone service, for example, to people or entities other than County employees anyplace else within the County?
A. Not to my knowledge. It's no different than the owner of this building having their own telephone switch and providing dial tone to people that live in the building.
Q. I'm just saying --
A. That's the extent, as far as I know.
Q. I'm just trying to understand.
Let's do it this way. We've agreed earlier in the deposition that MDAD is engaged in

what it hopes to be a profit-making enterprise by providing telecommunication services to tenants of the airport?
A. Yes.
MR. HOPE: Objection to form.
Q. Are the airports, to your knowledge, that we talked about the only places within the geographical boundaries of Dade County where a county agency is attempting to make money by providing telecommunications services?
MR. HOPE: Objection to form.
A. To the best of my knowledge, yes.
Q. Right.
All other facilities where the County has telecommunications services, it is being provided to County employees in a nonprofit-making enterprise?
MR. HOPE: Objection to form.
A. To the best of my knowledge, yes.
Q. Were you ever involved in a discussion at any time as to whether or not the County needed to obtain a majority vote of electors before it could engage in this kind of business?
A. Was I involved?
Q. In any discussions concerning that

subject.
A. No, sir.
MR. HOPE: Objection to form.
Q. To your knowledge, has the County ever in the past sought voter approval to engage in some sort of power or telephone business?
MR. HOPE: Objection to form.
A. I can't -- I can't recall. I don't remember.
(Plaintiff's Exhibit 10 was marked for identification.)
BY MR. BLOOMBERG:
Q. Show you what's been marked as Exhibit 10 for the purposes of deposition. I'll ask you to take a look at it. Let me know after you've had a chance to read it. By the way, for the record -- and I don't mind that Mr. Garcia is writing on it, but the little yellow scribble is Mr. Garcia's. He just wrote on the top of the exhibit. I don't mind at all --
A. Is that a problem?
MR. HOPE: No, he's just noting because this is the original.
Q. Well, it's not the original.
A. I'm sorry.

Q. I don't mind. No problem. I just want to make sure so that at some point when we go back we know where it came from.
A. Yes.
Q. Before I go to the document, was there a vote of the electors of Dade County taken to approve or to allow MDAD to engage in this telecommunications business at the airport?
A. Not to my knowledge.
Q. The memorandum which bears the No. 000453, dated March 5th, 2002, it's to Maurice Jenkins from David Hope.
Have you seen that before?
A. Yes, I have.
Q. When did you see that?
A. I can't say exactly, sometime after it was written.
Q. Do you know what precipitated that memo or why that memo was written?
A. To my recollection, was due to objections of BellSouth to MDAD providing telecommunications services at the airport.
Q. Did you have any discussions with anybody concerning the memorandum, Exhibit 10?
A. This is my concern in this memorandum.

Q. For the subject matter of the memorandum?
A. I don't recall specifically having any meetings or any discussions on this matter, no.
MR. BLOOMBERG: All right. Why don't we take a break for about ten minutes or so before we get into this stack of documents.
(A break was taken.)
BY MR. BLOOMBERG:
Q. Mr. Garcia, are you familiar with an agreement between Miami-Dade County, Florida and Nextira that was entered into early February of 2002?
A. Yes, sir.
Q. Were you involved in the preparation, if you will, of that agreement?
A. Yes, I was.
Q. What was the general purpose of the 2002 agreement?
A. The purpose was to acquire from NextiraOne the infrastructure that they had at the airport -- that they own at the airport to provide telecommunications services, including the telephone switches, network equipment and the wiring infrastructure existing at the airport.

Q. What do you mean by the term infrastructure?
A. Infrastructure is all -- basically the wires that are behind the walls that are running through the airport providing where the information flows to provide the services.
Q. Let's go to the 2002 agreement. Had the County been involved in the telecommunications business, so to speak, at the airport prior to that?
MR. HOPE: Objection to form.
A. The County was basically a customer of NextiraOne prior to that. We were their customers as far as they were providing us the services along with the services they were providing to other tenants of the airport.
Q. Before February of 2002 was the County providing in any way telecommunications services to other tenants at the airport?
MR. HOPE: Objection to form.
A. No.
Q. Strike that.
A. Nextira was providing the services. We were getting -- I believe it was a 10 percent commission on the services provided to other

tenants of the airport other than the aviation department.
Q. Was that just for allowing Nextira to provide it?
A. Yes.
Q. Did Nextira provide those services pursuant to an RFP, or how did Nextira get to the airport to provide those services? What was the arrangement?
A. This was a contract that existed, I think, prior to -- ten years prior to me starting there. I'm not sure how it was awarded. I presume it was a process of an RFP at the time. It wasn't even Nextira. It was Williams. It changed names a few times after that. So in any event, this has been going on for over ten years they've been there providing the services, as far as I know.
Q. Let me make sure I understand this. Up until 2002 or February 2002, Nextira or its predecessor, whoever it may have been, provided telecommunications services to tenants of the airport?
MR. HOPE: Objection to form.
A. To some of the tenants.
Q. Some?

A. Including the Miami-Dade Aviation Department.
Q. Did Miami-Dade County receive some sort of commission or payment from Nextira or its predecessor prior to February 2002?
A. We received, I believe, 10 percent of the gross for allowing them to provide the service.
Q. Did Miami-Dade County pay Nextira to provide services to the County, or did the County get those services for free?
A. We paid them through the nose for the services that they provided us.
Q. So on one hand the County was getting 10 percent or roughly 10 percent of what Nextira got from other tenants but also the County was paying?
A. We were paying and we were paying a lot more than what we were getting for the services.
Q. All right. And in February 2002, pursuant to this agreement with NextiraOne, the County became the provider and Nextira became, if you will, a subcontractor; is that a fair characterization?
A. That's correct.
Q. So there are Nextira employees now who

still work at the airport --
A. Yes.
Q. -- and who, in essence, report to MDAD?
A. Do not report to MDAD -- well, they have their own organization. The manager is Pedro De Camillo and they in turn are basically -- we have a subcontractor relationship.
Q. Okay.
A. We don't report, you know, in the sense of -- in an organization chart to us, but they basically are accountable to us for what they do. If they do what we tell them, we pay them.
Q. And they get paid for the services that they provide?
A. That's right.
Q. What, if you know, was the genesis that led up to this February 2002 agreement? How did it come about? Where did it start? Where did it come from?
A. I don't know who started it. That was done before I came to work at the airport. But it was a business decision, basically. It was -- we been -- they were charging the airport a lot of money for the services that we were getting, and it was decided that -- by analyzing the situation that

if we could enter into the right kind of agreement with them and buy the infrastructure that it would be a better business deal for the airport, plus we wanted -- the airport wanted to have control over the infrastructure at the airport instead of depending on an outside vendor to decide what we could do or not do.

Q. Were you asked at any time to perform any kind of evaluation, you personally asked for any kind of evaluation, any kind of analysis? Were you involved in any way in the loop, so to speak?

A. Yes, I was involved since the time I started working there.

Q. And I assume, correct me if I'm wrong, that as most things with the County, it went through a resolution process to get approval?

A. Yes.

(Plaintiff's Exhibit 11 was marked for identification.)

BY MR. BLOOMBERG:

Q. Let me show you what's been marked as Exhibit 11 for deposition which purports to be a memorandum from Manager Shiver to the Board of Commissioners dated January 29, 2002 and ask if you've seen that before.

A. Yes, I've read a lot of this stuff, at least **scanned through mostly.**

Q. Were you involved in any way in the preparation of that memorandum?

A. Indirectly as far as providing information, I directly did not write this memo. Whoever put this thing together when they needed technical advisement as to the wording or some of the things, I probably provided some of this information.

Q. The first paragraph, let's start with the first paragraph.

What does the acronym CUTE stand for?

A. It's Common Used Terminal Equipment.

Q. What is that?

A. This is the system that the airlines use to, again, basically to provide the ticket information, the reservations, print the boarding passes, the bag tags and even the tickets they print at the counter when you go check in at the flight.

And what it is is a system that acts like a traffic cop, and it allows the common use of counters and gates at the terminal, more important the gates. In other words, what the equipment does

is there's equipment there, your Delta Airlines, you -- let's say you're ABC Airlines. You have one flight a day. You don't want to rent that counter the whole day. You have a flight and you need it to for three hours in a day.

So you come in and this CUTE, when they belong to that system, they can use the system to log into their own -- into their own system which could be located in Brazil, and they log into their own system through the CUTE, and then when they finish, they log out and they move out and this terminal can be used by XYZ Airlines to do the same thing and it's not a dedicated gate for the airline but it could be used for other airlines.

Q. It's not like American who has 35 dedicated --

A. American has dedicated counters. They're not on CUTE. They have their own system, proprietary system.

Q. So CUTE, as I understand it, is something that would be used mostly by the smaller airplanes to go from gate to gate, so to speak?

A. Mostly, yes. It gives basically the airline gate assignment without having to say oh, no, you can't assign a plane coming for this gate.

This is only for this airlines or that airlines.

Q. I understand.

But there are four points in the first paragraph and I'll paraphrase, and if I'm wrong, please tell me.

MDAD or the County was going to acquire the equipment?

A. Yes.

Q. And that was all of the equipment related to the telecommunications business that Nextira was doing at the airport?

A. All the equipment that Nextira owned at the **airport, yes, it belongs to the airport now.**

Q. And for $6 million plus which is going to be **paid over five years?**

A. Right.

Q. Prior to the agreement, Nextira owned the equipment; is that correct?

A. Yes.

Q. What kind of equipment is this?

A. It's telephone switches, the telephone instruments that people use to make phonecalls, the network equipment behind the scenes, supplies, routing switches, all the wiring inside the airport to provide the services, the outside cables

connecting the different buildings, the CUTE equipment. That's basically most of it.
Q. And why did the County, if you know, make the decision to purchase the equipment?
A. It was a business decision mostly and also a way to control our own infrastructure at the airport instead of having it owned by some other vendor.
Q. Was there any discussion about maybe the County leasing the equipment from Nextira, or was it always going to be purchased?
A. We were leasing it. That was the mode of operation.
Q. Previously?
A. We wanted to get out of --
Q. That you wanted to own your own equipment to run your own business --
A. We were paying a rental for every little jack that you see on the wall, we were being charged like $2.50 for every jack, for every wire, for every nut and bolt at the airport. It was basically almost an extortion issue.
Q. Okay.
MR. HOPE: Objection to form.
Q. There was no question.

You can strike the extortion issue.
A. We were trying to basically improve the situation for the airport because like I said, it was a business decision, and we felt we could do a lot better by getting into a different mode of operation. If we could come up with a nice -- a pack or a proposal, an agreement that would be beneficial for the airport as far as going forward.
Q. Where MDAD was going to suddenly be able to make money on the operation on the telecommunications operation?
MR. HOPE: Objection to form.
A. The main issue was not to make money. The main issue was to -- let's realize that we were paying for the services that the aviation department staff was using.
Q. Right.
A. And that was very expensive the way it was done at the time because of the leasing agreements that we had. The main driving force of all of this was basically having a better deal as far as our own -- getting our own services provided to our own equipment. The whole STS issue of making money -- by the way, we're not making money. We're losing money. The whole issue was just a

consequence of it came with the deal, so to speak.
Q. You have the equipment, so now you might as well use it?
A. We have the equipment and we have the staff there, so we could use the staff to provide the service and we were sharing the equipment anyway. So the whole thing came along with the other thing, but it wasn't the main driving force.
Q. Right.
The driving force was the economics of --
A. Of getting our own services at a cheaper rate.
Q. But it was an economic deal?
A. Right, yes.
Q. And the outside services of it was there because you had the ability to do it because you were now going to own the equipment?
A. I'm sorry, the what?
Q. The ability to provide services to tenants --
A. Right.
Q. -- was because --
A. It was existing already. Nextira already had the contracts going and we had the

equipment and we had the people to do it.
Q. Right.
A. So it was just going on with what was there.
Q. And the second point in the first paragraph is the resolution of various claims arising out of the ELM Agreement and SATS Agreement, what is that, sir? Can you explain that to me? It's in the middle of the agreement.
A. The ELM Agreement was the agreement that the airport had with Nextira prior to the February of 2002. That was the agreement that was used in which we were leasing from them the services.
Q. Were there disputes going back and forth over that agreement because as a lawyer when I see resolution of various claims, it strikes me that --
A. There were some claims being disputed. Again, we felt sometimes -- I don't recall exactly any particular ones but there were -- I know there were issues that we were not happy with, the same way we were being charged for certain things, and there was always some going back and forth on that.
Q. And the SATS Agreement, what was that? The resolution of claims under the SATS Agreement, what claims are arising out of the SATS Agreement,

if you recall?
A. I'm not seeing any.
Q. Yes. It's the second number. It says resolution of various claims arising out of ELM Agreement and SATS Agreement.
A. I can't -- I don't recall exactly particulars of that, but it's all related to the -- again to some issues of charging and we did not agree with the way it was done.
Q. And three is the assignment to the County all existing tenant SATS and CUTE agreements entered into by Centel or its successors or assigns with tenants at the airport. That was --
A. The company's changed the name through the years from Williams to Centel to Nextira to NextiraOne, but it was an internal thing with them, a spin-off for the main company or so forth.
Q. So pursuant to the agreement you were entering into with Nextira, all of the Nextira customers at the airports were going to become customers of the County?
A. Yes, sir.
MR. HOPE: Objection to form.
Q. How many customers were there back in January of 2002, Nextira customers?

A. I don't recall the number but it's -- it was probably a little more than the list that you saw because since then the economy went down a little and people went out of business and so forth.
Q. So it might have been slightly hire than the 2003 list as far as the numbers?
A. It's slightly higher than what we had.
Q. And then No. 4 in this next paragraph is Nextira to become the interim telecommunications and infrastructure manager.
So Nextira's role post agreement was to be what?
A. Nextira's role was to become basically the provider on our name. They would manage, they will go and fix things. They would market, they would install and they would bill on behalf of the aviation department for these services.
Q. So in other words, was Nextira now to be paid by you, the County, for work it was going to do --
A. That's right.
Q. -- as opposed to being the actual provider?
A. That's right.

Q. So the County was going to be the provider to the post 2002 agreement, the County was going to provide the services to the tenants at the airport; is that correct?
A. Yes.
Q. And that was a change from prior to the 2002 agreement?
A. That's correct.
Q. In which Nextira provided services and the County just got a commission for allowing them to do it?
A. Right.
Q. The next paragraph talks about recommending the board approve the resolution authorizing the purchase of various equipment, and there's seven little Roman numerals.
Is that the equipment also referred to in Paragraph 1 or is that additional equipment?
A. This basically is supposed to encompass all the equipment that was owned by NextiraOne at the airport needed to provide the services outlined, the telephone, network, CUTE, and whatever else it would provide.
Q. And the County needed that equipment because, in essence, it was going into the

telecommunications business at the airport?
MR. HOPE: Objection to form.
A. The County needed equipment in order to continue to provide the services that Nextira was providing.
Q. Because Nextira, it was no longer providing the services, the County was providing the services?
A. Right.
Q. Is it correct that prior to the February agreement, February 2002 agreement, you, the County, was paying Nextira approximately $7,300,000 a year; is that an accurate statement?
A. It sounds right, yes.
Q. What was the County, if you recall, because you mentioned the County was getting a 10 percent commission, what was the gross amount of that commission, roughly? Do you recall?
A. It was about $200,000 a year. The gross was -- I think it was estimated during the negotiations at 2.3 million a year that they received gross. So we were getting 10 percent of that, approximately $200,000 plus.
Q. Right.
But the money that the County was

getting was only a percentage of what Nextira was receiving from the tenants?
A. That's right.
Q. Other than the County?
A. No, no, what we were paying them.
Q. Separate?
A. That was only to the people that was outside, anybody that wasn't part of the aviation department outside the County.
Q. Right.
In other words, the County paid Nextira roughly $7,300,000 for the services that Nextira was providing to the County?
A. Right.
Q. And then the County received a couple hundred thousand dollars from Nextira as a commission for allowing Nextira to provide services to tenants at the airport?
A. That's right.
Q. My numbers could be slightly off but --
A. Essentially that's what that is.
Q. And pursuant to the deal that the County made with Nextira, the County was buying the equipment but was going to receive all the revenue and it was going to pay Nextira for work that

Nextira did?
A. That's right.
Q. And that Nextira deal -- David, make sure I don't step over the line because I don't want to go over -- February 2002 agreement is still in place?
A. Is still in place.
Q. Right.
There is an RFP that's under consideration for a new manager?
A. It is in place until -- I believe the expiration is February 6th of 2004.
Q. But the County has an RFP out for a new manager?
A. Yes, sir.
(Discussion off the record)
BY MR. BLOOMBERG:
Q. Turn to Page 4 of that agreement just so I --
MR. HOPE: This one?
A. This one.
Q. Talks about SATS revenue. Page 4 in the middle of the page.
Does that sound about right, the gross revenue under SATS was roughly $2,670,000?

A. Yeah.
Q. So the County got 2,670,000 and paid out 7,300,000?
A. That's right.
Q. Did you or people working with you do any kind of pro forma analysis as to what the County was going to receive under the agreement, the 2002 agreement?
A. Receive? Well, yeah, the -- actual -- the 2.6 million, it would now become --
Q. It's County money?
A. County revenue.
Q. Either up or down?
A. And then from that you subtracted, you know, the projection was to pay whatever it was agreed to pay Nextira for that. And that was basically the business deal.
Q. The money that was to be paid to Nextira, how was that calculated?
A. You mean for the equipment?
Q. No, I'm saying --
A. For the monthly fees for them?
Q. Yes.
A. It was basically a summation of their basic costs for their staff, then the loaded

benefits and anything else that they need for that and then a profit on top of that, plus any other what they call third-party agreements that they had in order to do the business at the airport with all the companies that they needed and then they put a markup on that.
There was also a 14-percent markup on any other subcontractor agreements that they used to provide services. They tag on a profit to that. And so basically that constituted the --
Q. All right. So the first year of the agreement, can you give me, if you know -- how did that work out economically, the first year of the agreement, and we just passed over the first year's. Give me your best guess or --
A. The first year of the agreement, the actual -- okay. As far as the STS business?
Q. Right, the STS business.
A. I believe that the revenue is now, including CUTE and everything else, about 2.4 million.
Q. Okay.
A. And we lost about $300,000 in the STS part.
Q. So you paid Nextira 2,700,000 the first

year?
A. It cost us 2 million seven.
Q. Does that include the amortization for the equipment?
A. No, no -- no, the equipment was bought out by a price of $6 million. This was just operating expenses.
Q. All right.
A. And the operating expenses, basically we came out short on the -- just for the STS -- the SATS part which included CUTE or STS. I believe we came out short about $300,000 less the first year.
Q. How is the second year going?
A. We just finished the first year as of February, so we don't have the numbers yet for March and April.
Q. All right. But obviously the loss of $300,000 was a lot better than paying $7 million?
A. Yes, it was definitely.
Q. Definitely an improvement?
A. Yes.
MR. BLOOMBERG: Okay. Just so we can keep the record separate, let me mark this as the next exhibit.
(Plaintiff's Exhibit 12 was marked for

identification.)
BY MR. BLOOMBERG:
Q. Let me show you what's been marked as Exhibit 12 which purports to be a copy of the Resolution 31.02 which as I understand it is the resolution -- it may not be a complete copy, but it looks like the resolution -- and I'm not trying to trick you. It looks like the resolution that approved the February agreement.
Do you have a Page 9 there, a handwritten Page 9?
MR. HOPE: Right.
Q. We'll just add that to Page 9. I believe that's the agreement. Yes, the copy didn't come out good for some reason.
A. Okay.
Q. Does that appear to be the resolution that approved the agreement?
A. Yes.
(Plaintiff's Exhibit 13 was marked for identification.)
BY MR. BLOOMBERG:
Q. Let me show you what's been marked Exhibit 13 for purposes of the deposition, ask you to take a look at that and tell me if you recognize

it.
A. Yes.
Q. And is that what we've referred to as the Nextira Agreement or a copy of the Nextira Agreement?
A. It seems to be, yes. It's supposed to be. If there's something missing, it's certainly unintentional.
Q. And are you familiar with that agreement?
A. Yes, sir.
Q. Were you involved in the preparation or the drafting of the agreement?
A. Yes, I was.
Q. And to your knowledge, was that the agreement that was approved by the Board of County Commissioners?
A. Yes, it was.
Q. And is that your agreement, to your knowledge, that the County and Nextira had been operating under on or about February 2002?
A. Yes, it is.
Q. And is that the agreement that you understand that basically put the County in the telephone business?

MR. HOPE: Objection to form.
A. This is the agreement that provides for the MDAD providing telecommunications services to tenants of the airport.
Q. Okay. Both voice and network?
A. Both voice and network and other things, CUTE and --
Q. Just for my information, CUTE, would you refer to CUTE as a network?
A. No. CUTE is really not considered telecommunications or network. CUTE uses a network but CUTE also has lots of equipment outside the network, and it's a service that uses a network just like even the public address system and everything else that uses a network.
Q. All right. And as of now, as we speak today, the County and NextiraOne are still operating under this agreement?
A. Yes.
Q. And will do so until the agreement expires, which I believe is sometime next year?
A. February of next year.
Q. Bottom of the first page there's a description of a project, and what's your understanding of what that means? What are we

talking about?
A. Well, basically it's pretty much what it says here; provide for the operations and maintenance and provisioning of the equipment to support the services provided, including telecommunications, network, CUTE and other services provided using that infrastructure.
Q. Okay. Who was involved, if you know, in the negotiations between the County and -- who conducted the negotiations between the County and Nextira?
A. The negotiations was actually a room full of people.
Q. Okay.
A. Included, I was there, counsel was there.
Q. When you say counsel, you're referring to David?
A. David Hope. My boss, Maurice Jenkins, Bobbie Phillips, the assistant director, Delmer Wittington (phonetic), the manager of the contracts division, Marie Clark, my counterpart, chief of the contract division, Sue Sambasco (phonetic), who is an officer of that division also that does contracts. And then the folks from -- the team

from NextiraOne.
Q. Do you recall any of the people from Nextira?
A. Pedro De Camillo, the manager was there, the -- give me a second. Scott Drewy (phonetic), he's the -- one of the corporate folks that were dealing with that. Juan Shapo was there, I believe, the attorney. And -- and Bill McGlashan, he's basically the big boss of the operation at the airport but he resides in corporate.
Q. When did these negotiations start, approximately, as the first conversations that led up to this agreement? And if you can't give me a date, you can tell me five months, six months --
A. At the end of -- sometime in the fourth quarter of 2001.
Q. And the entry into this agreement would resolve any prior disputes between Nextira and the County; is that correct?
A. Yeah, the intent was to start with a clean slate.
Q. If you go to the definitions section which starts on Page 2 of 98. Down at the bottom it identifies there's airport, and we discussed earlier obviously Miami International and you

mentioned Opa-Locka and Tamiami.
This particular document also refers to other general aviation airports, Kendall, Tamiami, and the training and transition airport in Opa-Locka West.
Is there any telecommunications services provided by the County to any of those other airports?
A. The two airports that we have a direct connection to, which is Opa-Locka and Tamiami. The other ones basically have a self-contained system connected to BellSouth lines.
Q. Basically it's to the airports within the county?
A. I'm sorry. What was the question?
Q. These are the five airports, the airports that are listed --
A. That are owned by the County.
Q. -- in Paragraph 1.305 airports within Dade County, within the geographical limits of the county that are owned by the County?
A. Right.
Q. Paragraph 1.20 on Page 4 talks about equipment charges.
Did the County charge or does the County

pursuant to this agreement charge its customers for equipment rental? In other words, I'm a customer at the airport and I'm want a phone. I go to the County and say I need a new phone; do you charge them for that phone?
A. Give me a second to read this.
Q. Okay.
A. Okay. What was the question?
Q. And now we're just talking about subsequent to this agreement.
Does the County charge a rental fee to its customers for rental of equipment?
A. Yes.
Q. Okay. So if I'm a tenant at the airport who's using the County services and I need a new phone, you charge me whatever that charge is. You charge me for the use of that phone?
A. If you choose to use the airport as a service provider.
Q. Right, and as a service provider. Obviously if they're using somebody else, you can't charge them for it. But if I choose to use MDAD as my service provider at the airport, I get charged a rental fee for the use of the telephone?
A. You will be given a proposal, and if you

accept the proposal, you will be charged for the services, yes.
Q. To --
A. -- a rental fee, right.
Q. To your knowledge, do other service providers, other telecommunication service providers charge rental fees for the use of their agreement?
A. Yes, they do.
Q. The pricing may be different, but is there anything different -- the actual rental fee may be different, but is there anything different about what the County charges, to your knowledge, for rental of its equipment as opposed to any other telecommunications provider?
A. Okay. There's many ways to charge for the services and we know what we -- how we charge it. I cannot -- I cannot say that there's -- that there's a lot of difference or little difference. Every vendor will have a different way to charge this.
Q. What I'm really getting at, and it's probably a poor question, to your knowledge, other telecommunications providers charge some sort of fee for the use of their equipment as well?

A. Yes, they do.
Q. I mean that's a part of your business?
A. Yes.
Q. Paragraph 1.22 refers to gross revenue. As I understand it, was the County receiving all of the gross revenues from the tenants initially under this agreement or --
A. After the agreement was executed?
Q. Right.
MR. HOPE: Objection to form.
Q. After the agreement was executed and you started operating under the Nextira Agreement, who got paid by the customers?
A. The customers' gross revenue then came into -- came to the airport instead of NextiraOne.
Q. It came to MDAD, and then MDAD paid whatever was paid to NextiraOne --
A. Right.
Q. -- as opposed to previously, money went to --
A. NextiraOne and we got the 10 percent commission.
Q. Paragraph 1.32, shared airport tenant services. The provision of service which duplicates or competes with local service provided

by existing local exchange telecommunications company and is furnished through a common switching or billing arrangement to tenants by an entity other than an existing local telecommunications company.
Can you explain that to me? I'm a little slow.
A. Well, it's basically saying that we can provide a dial tone that you receive on your telephone, among other services, basically, and we basically compete with what the local exchange carrier would do. I mean you can go to services to a local exchange carrier, to us, or to any other company that provides those services.
Q. The local exchange carrier being BellSouth?
A. Yes.
Q. Is BellSouth the only local exchange carrier?
A. It's the only local exchange carrier. The other ones are alternate local exchange carriers.
Q. In terms of drafting the agreement, then why, if you know, did it say service provided by the existing local exchange telecommunications

company as opposed to saying service provided by BellSouth?
A. I would imagine the wording was probably taken from the definition that is existing in the Florida Statute or SATS, STS.
Q. But clearly the reference to existing local exchange telecommunications company, is it fair to say that that is a clear reference to BellSouth?
MR. HOPE: Objection to form.
A. The -- yes, it looks that way, but the reason is that at the time that this was written, the wording of the statute was probably written before competition was allowed. So the only provision at the time was the local exchange carrier --
Q. Okay.
A. -- and this was just taken from that just to be accurate, to have some meaning --
Q. Right. But what I'm saying is the only existing local exchange telecommunications company referred to in Paragraph 1.32 is BellSouth; is that correct?
MR. HOPE: Objection to form.
A. In Miami-Dade County.

Q. Well, this agreement only refers to Miami Dade County, doesn't it?
A. Well, I'm trying to be accurate.
Q. I understand. I understand. I mean the agreement itself is only operating in Miami-Dade County; correct? Your agreement with Nextira is to cover airports in Miami-Dade County, not anything else?
A. Actually the way -- it's anybody that can provide dial tone to -- to access to a public network. That's what it refers to the local exchange -- local exchange -- an existing local exchange telecommunications company. So you can get dial tone from MCI or anybody else. So that's what it's --
Q. And clearly shared airport tenant services contemplates the competition between various telecommunications providers; is that a fair statement?
MR. HOPE: Objection to form.
A. I'm sorry. Can you --
Q. Let me rephrase it.
This paragraph makes reference to the fact that the services that MDAD is going to provide compete with other providers?

A. Yes.
Q. Okay. Because they're providing similar services?
A. Yes.
Q. MDAD is providing services similar to other providers?
MR. HOPE: Objection to form.
A. Yes. I'm assuming in all of this, you're keying on telecommunication services and the airport provides not only those but a lot of other services to them from the airport. But your question was specifically directed towards the telecommunications --
Q. Yes. The fact that the airport provides in-flight communications to people --
A. No. I'm saying monitors for flights and additional microphones, others -- we provide everything that we can provide to tenants of the airport, and telecommunication is just one of those things.
Q. Right.
We're talking about telecommunications here.
A. Okay.
Q. Now, if you turn to Article 4 which

begins on Page 10 of the agreement, it talks about what contractor is required to provide. Do you see that just starting off above the letter A? And the contractor is NextiraOne?
A. Um-hum.
Q. And there's a list of what NextiraOne is going to be doing; is that correct?
A. Yes.
Q. And those are all operations that NextiraOne is going to be providing under the supervision and control of MDAD?
A. Yes.
Q. Was MDAD the final authority, in other words, MDAD had to approve things?
A. Yes, MDAD is the final authority and the County as far as --
Q. Well, the County --
A. Right.
Q. And all of these things that Nextira is supposed to do pursuant to this agreement are things that a telecommunications company, telephone utility would also do --
MR. HOPE: Object to form.
Q. -- is that a fair statement?
A. No. Like I said, the MDAD provides

services to the tenants way in addition to whatever the telecommunications companies do.
Q. Okay.
A. And I'm not talking about in-flight services. We don't provide that.
Q. Let me rephrase the question.
MDAD is providing a greater amount of services than a telecommunications company would do?
A. Yes.
Q. Some of the services that MDAD provides through NextiraOne are the same services that a telecommunications company would provide?
A. That's correct.
Q. For example, manage the existing voice and data is something that a telecommunications company would do?
A. If we engage them to.
Q. Could do?
A. Yes, could.
Q. Routine installations of telephone lines are something that a telecommunications company would do?
A. Yes.
Q. And I understand that MDAD does more

than the telecommunications company but --
A. When we say telecommunications company, it's any telecommunications company.
Q. Yes.
Okay. If you turn to Page 28 of the agreement --
A. Okay.
Q. -- there is the letter big -- capital D towards the top of the page, shared tenant service. Contractor agrees to use its best efforts to establish, market, maintain, operate and manage SATS for the County, including CUTE, to tenants and users at the airport consistent with the requirements of the Public Service Commission of Florida or whatever other governmental entity has jurisdiction over SATS and if and where applicable and all applicable laws.
How does that paragraph of the agreement square with the fact that the County had made a decision it did not need certification of the Public Service Commission?
A. Well, the decision that the County made was based on the interpretation of the Florida Statutes of -- as it refers to the SATS business, and it was interpreted that we didn't need

certification because the airport is exempt from that certification.
Q. Then why was that paragraph, to your knowledge, in the agreement, if you know?
A. We were trying -- we were trying to convey to the vendor and the people that were not knowledgeable in this business, to the best that we could, the scope of this agreement, and that was deemed to be burdening to define what the shared tenant services is.
Q. Did Nextira have a certification from the Public Service Commission to provide services at the airport, telecommunications --
A. I cannot be sure. To the best of my knowledge, I've never seen one. I'm now aware of it.
Q. To your knowledge, would they have been required to do so?
A. I don't really know because I've never looked at it from a vendor point of view whether they need one or not.
Q. To your knowledge, does BellSouth have a certificate to provide services at the airport? Do they need a certificate?
A. I don't know whether they do or not.

Q. But you don't know if anybody needs one; is that a fair statement?
A. To my knowledge, I don't believe a telecommunications company would require any specific permission to do their business anywhere. They need to be licensed by the P.S.C. to operate in Florida. But specifically as to the STS, I don't believe they need specific permission.
Q. Page 29, No. 4, the contractor shall submit a proposed tariff schedule for all SATS.
To whom was the contractor supposed to submit a proposed tariff schedule?
A. To MDAD, to the County.
Q. And what was that tariff schedule supposed to reflect?
A. It should reflect the prices for the services that they were going to charge the customers.
Q. And why do you use the word tariff?
A. Tariff in the telecommunications business is basically a price list.
Q. A term of art in the business; is that a fair statement?
A. Yeah, it's a term used in the business for telecommunications prices. In reality, legally

it probably means something approved by the P.S.C. and so forth. But in this case, it was just meant to be a price list. Page 49 refers to personnel.
Q. And it talks about the contract of Nextira providing a staff of 38 people. Is that roughly the same number of people that are there now?
A. Yes.
Q. And if I went through this list, and we don't have to go through it, basically those are the job descriptions of what those people are supposed to be able to do?
A. Yes.
Q. All right. So installers, technicians and managers and customer service-type people?
A. That's right.
Q. Just like any other business, any other telecommunications --
A. Yes.
MR. HOPE: Objection to form.
Q. On Page 50, B, capital B, one of the things that the contractors are required to provide are technicians and installers that are totally familiar with the installation, repair and names of various types of telephone systems.

Why was that?
A. Why was that?
Q. Why do you want telephone installers?
A. Because we were going to install telephone equipment and wiring and infrastructure to provide telephone services.
Q. And the technicians were supposed to be factory-certified; is that correct?
A. Yes, they need to be to -- in order to -- if you're going to access the PBX switches, the vendor requires that you have certification; otherwise, your warranty and everything else is void.
Q. And who provided the certifications?
A. The manufacturer of the equipment which in this case was Nortel.
Q. The Page 69, the second paragraph above Article 15, the County was responsible for making all policies and decisions; is that correct?
A. Yes.
Q. That's because Nextira was a subcontractor?
A. Yes, that's right.
Q. If you turn to Exhibit 6 which is towards the -- well, it's probably the 30th or 40th

page after the agreement. I wish I could help you out. There's no numbers. It's part of the agreement but it's after a bunch of exhibits.
A. This is after this big thing.
Q. Before you get to that, go to Page 74 of the agreement.
A. Before you get to 74 --
Q. No, go to 74 first. I had a question about Page 74, Article 21, the assignment.
A. Yes.
Q. All right. As I understand it, effective with this agreement, all of the entities or tenants that have been customers of Nextira or Williams or whatever it was became direct customers of the County pursuant to an assignment of their contracts; is that correct?
A. That's correct.
Q. So in other words, the relationship, as you understood it, was to be a direct relationship between the tenant and the County?
A. Actually, the actual tenants were not involved in this and Nextira basically by virtue of this contract assigned those contracts.
Q. To the County?
A. Yes.

Q. Now if you go to Exhibit 6, which is your customer list, it has airport CUTE agreements --
A. Right.
Q. -- right?
Were those the customers of Nextira that were assigned to the County, as best as you understood it?
A. To the best of my knowledge, this was provided by them.
Q. And essentially I'm not asking you to prepare it. It's looks to be similar to the 2003 list that we looked at earlier?
A. That's right. It should be.
Q. It should be. It may not be but it should be.
How were the customers, the tenants notified of this particular transaction?
A. I believe a letter was sent to all the customers telling them that the ownership of equipment and everything else was MDAD -- I mean the aviation department and not NextiraOne.
Q. Let me see the agreement -- no, no, the rest of that. Some of it should be marked separately. This goes with the agreement. You

don't need to look at this anymore. You may want to put it together and put a rubber band around it.
(Plaintiff's Exhibit 14 was marked for identification.)
BY MR. BLOOMBERG:
Q. Let me show you what's been marked as Exhibit 14, ask you to take a look at that.
A. Okay.
Q. Do you recognize?
A. Yes, I do.
Q. You mentioned briefly, before I interrupted you, a letter went out to the customers. Is that a copy of what apparently was the letter?
A. Yes.
Q. And that letter advised the customers that basically the County was now taking over the operation of their agreements, with the customers' agreements with Nextira?
A. Yes.
Q. And in the middle of the page, the bracketed paragraph, accordingly, simultaneously with the effective day of the assignment and in accordance with the agreement, NextiraOne will no longer be responsible under the agreement, although

it will provide management services regarding the agreement as has been requested on behalf of the County; is that right?
A. That's right.
Q. And the agreement referred to in that paragraph is the agreement we just talked about, the NextiraOne County Agreement?
A. That's correct.
Q. And Mr. Jenkins, who signed the letter, is advising the tenants that we could also competitively bid any changes. If you want additional services, happy to provide them, so to speak?
A. That's correct.
Q. After the agreement was entered into, the Nextira agreement, do the customers now make payments of their invoices or bills to the County?
A. Yes, they do.
Q. And the letter refers to an open house for customers down at the bottom there. What was that open house for?
A. It basically was a -- like a meeting, an open meeting which invited the tenants of the airport -- to basically reiterate what the letter said.

Q. Who was at the meeting?
A. I don't recall. A few -- you know, several tenants came and folks from NextiraOne, Maurice Jenkins, myself. It was basically to try reiterate, like I said, what the letter said, that MDAD was now the service provider.
(Plaintiff's Exhibit 15 was marked for identification.)
BY MR. BLOOMBERG:
Q. And did you correspond with the customers after the open house? And I'm not trying to trick you. Let's -- it's not a guess.
A. We try to -- yeah, there was one or two more letters that were -- yeah, information things to -- like, yeah, this is one of them, where to call and so forth.
Q. Right.
That's Exhibit 15?
A. Right.
Q. And that was a letter written by Nextira?
A. Yes, on our behalf, just to let them know to improve the customer service.
Q. And also let them know, here's who you make the payments to?

A. Right.
Q. Important stuff?
A. Yes.
Q. And when did the County start purchasing the equipment from Nextira? Right after the agreement?
A. It was basically done when the contract was closed, February 6, 2001. There was a price agreed for and moneys exchanged and --
(Plaintiff's Exhibit 16 was marked for identification.)
BY MR. BLOOMBERG:
Q. Let me show you Exhibit 16 which is apparently a memorandum dated August 14, 2002 from Zeida Hernandez to you and ask you if you recognize that document.
A. Yes.
Q. And what is it, sir?
A. This was regarding the inventory of equipment at the airport that we had purchased from NextiraOne which we're now in the process of identifying or taking to basically show it belonged to the airport now instead of Nextira.
Q. All right. So as I understand it, this is basically a list -- the bulk of this document is

101 pages of identifying equipment that was purchased by the County?
A. That's correct.
Q. For example, on the first page, it's whatever this piece of equipment is is now a piece of equipment owned by the County?
A. That's right.
Q. And it's telling you where it is and what it is and so forth and so on?
A. That's right.
Q. And the County bought all of this equipment from Nextira?
A. Yes.
This is all the equipment that exists within the -- within the facility of the Miami International Airport.
Q. Supposedly?
A. Yes.
Q. And this was the agreement up to February 6, had been owned by Nextira, is now owned by the County?
A. That's right.
Q. And this is the equipment that the County now rents out to some of its customers or --
A. To provide our own services and to the

customers that use this equipment.
MR. BLOOMBERG: Let's take about two minutes.
(A break was taken.)
- - - - -
A luncheon recess is taken at 11:42 p.m.
- - - - -
Afternoon Session
May 21, 2003
1:05 p.m.
- - - - -
(Ms. Liebman is not present but Ms. Kay is now present.)
BY MR. BLOOMBERG:
Q. Mr. Garcia, since the agreement, the Nextira Agreement in February, how are customers billed? What's the billing process? And I say customers, the tenants, the STS customers?
A. Right. They're billed every month. NextiraOne submits -- prepares the invoices and then they get routed to us and then they go to the finance -- the MDAD finance department who actually mails the bills to the tenants.
Q. And prior to the Nextira Agreement they were billed directly by Nextira --

A. That's correct.
Q. -- and didn't have much knowledge of that process and you weren't involved in it; correct?
A. Yes.
Q. Were there standard forms used for the bills?
A. There's a bill form, yes. I believe there's a bill form used for the bills.
MR. BLOOMBERG: All right. Let's mark this as a composite.
(Plaintiff's Exhibit 17 was marked for identification.)
BY MR. BLOOMBERG:
Q. Let me show you what's been marked as Composite Exhibit 17, ask you to go through them and just tell me whether or not these appear to be copies of invoices to various STS customers, and then we'll go through one of them and we'll ask questions about one of them. But I just want to make sure that they're all the same kind of form. And I will tell you the black marks, the redactions, are not mine. That's the way they were given to me.
A. Okay.

Q. All right. Do those appear to be invoices to customers?
A. Yes.
Q. All right. Let's look at the first one which bears the Bates No. 009794 at the bottom of the page and we'll just go through that.
Top of the page says Miami-Dade Aviation Department (SATS Standardized Billing Form), I guess that is. Look at the first page. Is that correct? Is that a County form?
A. Yes.
Q. Does the customer receive this page?
A. Yes.
Q. All right. We have an invoice date -- all right. So that's the date of the invoice?
A. Yes.
Q. Billing period is for in this case March 7th through April 6th, '02?
A. That's the billing period, right.
Q. What is this record number? What does that indicate?
A. I'm not sure. That may be some internal number that Nextira uses for some control.
Q. Prepared by TDennis. Who is Dennis?
A. Tracy Dennis, that's an NextiraOne

employee, the one that does the billing.
Q. Okay. Telephone number, now which telephone number --
A. That's Tracy Dennis' telephone number.
Q. Customer ID would be some number --
A. Right.
Q. -- which is blacked out?
A. That's assigned by the MDAD Finance Department.
Q. Whatever number that is is the number for that particular customer which matches up with the company name?
A. Correct.
Q. So that number would be the same on the next billing period and the next billing period and so forth?
A. Correct.
Q. Company name would be ABC, Inc. or whatever the customer is?
A. That's right.
Q. Contact name would be the individual who --
A. In the -- in the customer, the company that basically would contact us or we contact them if we have any kind of a question.

Q. Okay. Phone number is the customer's phone number?
A. Yes.
Q. And the billing address would be where it's going to?
A. Right.
Q. Okay. Usage code, the first one says Nexren; what is that?
A. It's probably an abbreviation from a Nextira rental and then the other one, Nexing would be Nextira -- I can't remember what I-N-G stands for. It's just the way that they divide the billing, probably between billing and let me guess -- I can't remember what the I-N-G stands for but it's just --
Q. And then we have a total -- I haven't done the math but it looks to be right. And then Attach the Schedule E summary to the invoice. What is that, do you know?
A. I would assume that they want -- a Schedule E normally means the equipment that has been -- that's been rented. In this case I'm not sure what -- you know, why is it there. Some of these things may be -- even though it doesn't say so, it might be the equipment that's been rented,

the next page that has the list of equipment.
Q. All right. And if we turn to the next page, now the first form we looked at was a form prepared by the County?
A. Nextira prepares on our behalf.
Q. But it's a County form, the Miami-Dade Aviation Department?
A. Yes, we want to show the name of the company that's providing the service.
Q. And this first Page 9794 is one of the pages of the invoice that goes to the customers?
A. Yes.
Q. The second page, 9795 has NextiraOne in the right-hand corner; correct?
A. Right.
Q. And does that page also go to the customer?
A. Yes.
Q. Okay. On that page then the billing period, a monthly rental and some discount -- now, what does this coverage full-serve mean? I guess the fourth line down. Do you know what that means?
A. It's the designation that Nextira uses that defines the level of service that they would provide the customer, like repairs are included.

It's just like a marketing name for the source.
Q. Okay. Now, this customer also has long distance charges, it says 642.29?
A. Right.
Q. And then monthly rental of 745.46?
A. Right.
Q. Which seem to match up with the numbers on the prior page?
A. Right. The reason is because the long distance is a pass-through and we actually have a markup or we can say make profit on the rental. But the long distance charges we don't -- we don't add anything to it. That's why we separate the two things.
Q. It would appear that Nexing on the first page of this exhibit has something to do with the long distance numbers, doesn't it?
A. It looks that way, yes.
Q. But you're not sure?
A. This form was basically inherited from Nextira when they used to bill us. We didn't really change the format. We just put the title here and use the same --
Q. And you're still using the same form?
A. Yes.

Q. Now, down below the values or the costs we have a series of columns which looks to be equipment. Is that equipment that they're using?
A. Yeah, these are the equipment -- the different types of equipment, phones, ports, et cetera, these are the quantities and then the price per month, the yearly price and then the discounted --
Q. Okay. So this is the equipment that this particular customer rented during that particular period of time?
A. I'm sorry. It's not the year. The extant that is the total when you multiply the unit times the quantity.
Q. But there's some discount for some reason to this customer?
A. Right. To make them feel good. There were some deals that are made. Like anything you do, you don't want to pay retail. You want a discount.
Q. Right. But the list of equipment, Meridian One Port, Advanced Features Conference Calling, these are all equipment or services --
A. That's right.
Q. Let me finish. It makes the record very

sloppy -- that this particular customer utilized that month?
A. Yes.
Q. And the second page of this equipment is also a part of the bill that goes to the customer?
A. Yes.
Q. The third page which bears the number 9796 and there's a series of pages like it afterwards. It says Miami International Airport STS detail, SMDR Date/Time is within the last one month(s)-Abs; what does that mean?
A. Well, STS is Shared Tenant Services.
Q. Right.
A. SMDR is -- let's see what it stands for. It's the -- SMDR is the software that in the -- in the telephone switch that accumulates the records of the calls.
Q. Okay.
A. And that -- this is taken from the switch itself. It stores it in the database of all the calls that are made and then it's sorted out by who makes them, and then this is the detail of the long distance calls that this customer has made from the numbers.
Q. Now, Division 3P0L, what is that?

A. I don't really know, to be honest with you, what that really means. That could be a designation by Nextira to keep track of the accounts.
Q. And then whatever is after department is redacted, is blacked out, but what is that, do you know? I don't want to ask you for the specific name of a customer, but if this were not blacked out, what would I see there?
A. The name of the customer.
Q. The department is the name of the customer?
A. Right.
Q. And is this the customer's long distance bill?
A. It appears to be, yes.
Q. So for example, what it's telling me is that on March 8th, 2002, 3:25 the customer made a 52 second long call to a number in Long Beach, California --
A. That's right.
Q. -- and was charged 6 cents for that call?
A. That's right.
Q. And this would be on a daily -- this is

a daily sheet?
A. This is a monthly bill.
Q. The detail.
A. Since the information is not here, it's probably -- every one of these pages probably -- it's what each number -- the numbers that each telephone number dial by month. So it's by telephone number.
Q. By telephone number?
A. This individual sheet, if somebody in this office has this number made this eight calls or whatever.
Q. Right.
And if I were the customer, I would receive this on a monthly basis?
A. Yes.
Q. Just like I receive my phone bill from BellSouth or AT&T or whoever else it might be?
A. Yes.
Q. And you said these are pass-throughs. There's no profit on this?
A. That's correct.
Q. The County gets billed by?
A. By BellSouth or MCI, whoever carries the long distance, by this amount, and we just pass it

through.
Q. Why not put a markup on it?
A. We just don't.
Q. Has a decision been made not to do that, or is that because the contract between NextiraOne and its customer --
A. I don't really recall why we don't do that, but the decision was made not to do it. I can't --
Q. To your knowledge, is there anything legally that prohibits you from doing that?
A. I don't know of anything legal that prohibits us from doing that. It could have been just a marketing decision not to put an additional expense to the customers. So they're getting the other services from us and let them have the long distance at cost. I mean that's what -- what I think it is the reason why it was done that way.
Q. And bills would go out essentially every month to the customer?
A. Right.
Q. And money is supposedly paid to the County directly?
A. Yes.
Q. Let me ask you to go to the second --

actually, it would be the big number on -- it should be 006551.
A. Yes.
Q. On the bottom of the first page, there's attached Schedule E summary, L/D detail, CSO to the invoice. What does that mean? Because it's a little different than the prior document.
A. Well, again, the E summary is the summary of the equipment that you're renting, the long distance detail is all these sheets with the calls. And the CSO is probably customer service order, and it implies to me that there was some other work that was done like installation, like a fiber installation or additional cabling or something and there was a separate work order associated with that.
Q. And you would attach that work order to the invoice?
A. Right. Something that they asked us to do for them and there was a charge for that.
Q. The next two lines have a bunch of numbers, what does that indicate to you?
A. Okay. This seems to be the -- explaining the charges for -- the charges that we show here as 185. It explains the additional

charges that you see here. Like reprogramming extension 9324 per quote. The second line says it has an STS number which is probably the customer number, and then it says the action that was charged which is reprogram extension 8324; that looks like a telephone extension and we did some reprogramming to the telephone and following -- this was per quotation given to the customer, and that's the number of quotation that was given to the customer.
Q. Now, Tracy Dennis you said?
A. Tracy Dennis.
Q. -- Tracy Dennis prepared at least this invoice as well. How would Ms. Dennis know what to attach to the invoice? Was there a policy that --
A. Yeah, there's rules for the game that they follow for that.
Q. In other words, if any work is done during the month --
A. It would show up here at least this much. I don't know if we're including the whole ball of paperwork, but at a minimum we're telling them what we're charging.
Q. So you want the customer to see whatever extra work was done --

A. Right.
Q. -- in addition to just the regular rental involvement?
A. Right.
Q. And that would be part of the invoice package?
A. Right.
Q. Okay. So tell me what the standard invoice package that would go to the customer would include. It would include the first page, the Miami-Dade Aviation SATS Standardized Billing Form; correct?
A. Right.
Q. It would include the second page, the Nextira breakdown of the equipment rental that we looked at?
A. That's right.
Q. It would include the long distance detail that we looked at?
A. That's right.
Q. And it would include any work orders or --
A. Well, a description of the work --
Q. Okay.
A. -- not necessarily the complete work

order, but at least what you saw down here, the descriptions.
Q. So the customer would know they were getting billed for a particular service --
A. Right.
Q. -- as opposed to just seeing some extra charge on the invoice?
A. That's right.
Q. And those went out monthly?
A. That's right.
Q. To each one of the 50 or whatever number of customers?
A. That's right.
Q. Bills are due within what, 30 days of receipt? Is there a standard that the County operates under?
A. Yeah, I would imagine, probably.
Q. You're not involved in that?
A. I'm sure somewhere in there.
Q. Did Nextira personnel actually handle the billing function for the County?
A. They prepared a billing package and then -- right.
Q. Does some County employee or is some County employee required to approve the billing

package before it goes out?
A. We check out the bills to make sure that they're correct.
Q. Who does?
A. The folks that -- the customer service representatives.
Q. Guelsys?
A. Guelsys Coplan, Lorraine Jones, Barbara Altamirano, those.
Q. They check out every month?
A. They check out the bills.
Q. Before they go out?
A. Right.
Q. And the money goes to the County downtown someplace?
A. The money is written to the Miami-Dade Aviation Department. It goes to the finance department at the airport.
(Discussion off the record)
(Plaintiff's Exhibit 18 was marked for identification.)
BY MR. BLOOMBERG:
Q. Let me show you what's been marked as Exhibit 18 for the deposition which also appears something having to do with calls but it looks like

a little different form. Can you tell me what that is? And it appears the Bates number is 017567.
A. This seems to be a record of long distance calls.
Q. Yes. It's a little different form. Can you explain the cover sheet to me, why it's different or what it is? The front page, it looks different than the prior pages.
A. I'm not sure if this would be the front page of the bill itself. It might be part of an attachment that there was something in front that this was an attachment to it.
Q. You don't really know what it is?
A. It's a detail of long distance calls.
Q. Right. I'm just interested in what this first page is, Page 017567. I recognize the rest of it is detailed long distance calls.
A. It seems to me that it's just a report that is produced out of SMDR system and PBX, and this might be the first sheet that is like the programmers use and they were just inadvertently put in this set of documents. This is basically not for the customer to see. It's like an internal sheet that the people approve the document for the PBX.

Q. It just got stuck there?
A. It just got stuck.
(Plaintiff's Exhibit 19 was marked for identification.)
BY MR. BLOOMBERG:
Q. Let me show you what's been marked as Exhibit 19. It bears Bates Nos. 18310, 11, and 12 it's a document LT-1 Configuration.
Can you tell me are you familiar with that document?
A. No. I should be able to figure it out.
Okay. This seems to be a bill from WorldComm, which is MCI, for the provisioning of some high capacity -- it's a T1, like a high capacity circuit, you know, contributing two points to T1, actually. It's hard to say, but it's definitely provided by WorldComm. It terminates in one of the switches in Nortel Option 11 equipment termination. So it's connecting that switch to something. It would be -- it could be a number of things.
It could be a connection between the main switch at the terminal and a smaller -- a smaller switch maybe at some of the other airports and making the connection via T1 service. Or it

could be a -- a long distance -- it's a high capacity equivalent to 24 channels of a regular phone line. It's embedded into one digital line. That terminates in Nortel Option 11 which is a smaller digital switch.
Q. Is this an invoice of something that was sent to the County or the customer? Without telling me the customer name, because I know you won't, but was this an invoice that was sent to a customer of the County or to the County?
A. This looks like a bill that was sent to the County from Nextira. Because these services were procured originally by Nextira and some of these services they pay them and then they bill us for them. And this seems to be one of those.
Q. So this does not appear to be something that was sent to a STS customer?
A. This is correct. This is something that went to the Aviation Department from Nextira and we paid it.
Q. Was it something that was passed on to a customer, or was it something just for your use?
A. No, this seems to be something like for our use.
(Plaintiff's Exhibit 20 was marked for

identification.)
BY MR. BLOOMBERG:
Q. Let me show you what's been marked Exhibit 20 for purposes of the deposition.
A. Exhibit 20.
Q. Exhibit 20. Any idea what it is?
A. No, not yet.
MR. BLOOMBERG: David, if you know what this is, I am going to be very impressed.
A. This seems to be -- again, this is a report that should not have been going anywhere. It's probably something that's produced in the telephone room by the technicians that are working on the switch. And as a part of the regular maintenance they produce these things and somehow it ended up with the rest of the papers.
Q. But what is it? Do you have any idea what it is? What does it show?
A. No, it's a printout but something internal to, I imagine, some of the equipment. It's got no bearing to anybody other than anybody who has been trained and working with this system to do something with these things. This has nothing to do with money or billing or anything else.

Q. Okay.
A. Never seen that before.
(Plaintiff's Exhibit 21 was marked for identification.)
BY MR. BLOOMBERG:
Q. I'm going to show you what's been marked -- now you're trying to figure out what it is.
A. It's coming out of the PBX. I recognize some of the codes.
Q. Let me show you what's been marked as 21, ask you if you can identify that.
A. Okay.
Q. What is it?
A. It seems to be a customer list with their customer number and their contact.
Q. Do you know when that was prepared?
A. No.
Q. Do you know if it was prepared before or after the Nextira Agreement?
A. No, I don't.
Q. And I will tell you that at least from my reading -- my calculation is there's 56 names. Does that sound like the right number of customers?
A. Yes.

Q. Okay. If a customer wanted service, wanted something done, how do they go about arranging that under the -- again, since it's a Nextira Agreement? And I'm talking only about since the Nextira Agreement now.
A. Normally they contact Holly Klaity, who is the marketing representative from NextiraOne, and she will be the one that makes the contact with the customer and goes see what they need, takes the order, gives them a proposal, and then the customer would sign -- either sign the proposal agreeing to it or enter into the contract for the services.
Q. At what point would a County representative get involved? And I'm the customer, I call Holly and I say I want to do something.
A. Okay. You will call Holly and say I need to see you. I need some things. She will go over there, determine what you need, write you a proposal. Some work needs to be done to execute the proposal. She will say I will charge you this much per month. Then she prepares the proposal, the customer signs it and then it comes to us for approval because either some expenditures need to be made, either in time or materials, to provide the service.

So we, the aviation department, needs to approve that. So that's the first time we get involved to approve what she's going to do for the customer, and then it goes up to my boss' level or higher if it's a lot of money. And if it's approved, then the order goes back to Nextira and they go and execute what they're supposed to do.
Q. All right. So the County would not get involved until after the proposal had been basically presented by Nextira and then they would give the proposal to you?
A. That's correct.
Q. Okay.
A. No, I'm sorry. Let me correct that.
If Nextira is going to present a proposal that involves we're going to spend some money to provide the service which usually is the case, we need to approve that before it goes out.
MR. BLOOMBERG: Let's mark this as a composite, also.
(Plaintiff's Exhibit 22 was marked for identification.)
BY MR. BLOOMBERG:
Q. Let me show you what's been marked as Composite Exhibit No. 22 for the deposition which

are four documents each titled Telecommunications Request for Communications Service. They're dated respectively 2/11/02, 7/23/02, 9/13/02 and 10/03/02. It's five documents. The last one is 10/18/02. Can you tell me what those are? Have you seen those before?

A. Not these particular ones.

Q. Tell me what the form is.

A. This is a work order request for service. It has the description of what needs to be done for some customer.

Q. All right.

A. And if -- it has the approval of -- this is Maurice Jenkins' signature approving.

Q. Which one is Maurice down here, 2/12/02?

A. Normally this will have my signature here. I don't know. Maybe I wasn't in the office on that day. But normally I would approve this before he does, and then the attached is just explanations of what it is, explaining what work needs to be done.

Q. At what point in the process -- you know, we talked about customer calls Holly, Holly makes a proposal and so forth. At what point of the process would this form come to the County, the

telecommunications request for --

A. Holly makes contact with the customer and defines the work that needs to be done. Then they -- they can really -- they really cannot do anything unless they have one of these signed by somebody.

Q. By somebody?

A. So in order for them to spend time and money --

Q. And get paid for it?

A. -- performing any services, they need to be approved by the County.

Q. Okay.

A. And the approval is in the form of signing this work order.

Q. All right. Now, on the form you have telephone. So under the -- I guess about a third of the way down it says telephones. So I guess the customer would be picking what customer -- not this particular customer but just using the regular form --

A. Let me tell you something. This form not only exist here but exist in the County when the -- in the department I used to work -- doing work for the County. Normally these forms were

designed years ago by somebody, and they have all these things in the front which are hardly ever used by anything.

Q. Okay.

A. They're just there. But in reality you describe the description of the work is usually an attachment that has more detail --

Q. Okay.

A. -- than just using what's in this form here.

Q. And what is the section of the form that says BellSouth service, what does that mean?

A. That means -- that means that if it's a BellSouth service involved, we're getting the connection through World -- from BellSouth. It could be a line from BellSouth for whatever reason attached to that service.

Q. You mean for the long distance calls?

A. No, local calls.

Q. This is an e-mail from Maria Perez to, what is it, Pedro De Camilla?

A. Pedro De Camillo is the manager of NextiraOne.

Q. Okay. I am forwarding this information to Guelsys so she can give you an IPON. What is

IPON?

A. IPON is the -- what's used for a work form.

Q. This is IPON?

A. Don't ask me to spell that. Nobody knows what that means, but that's what it's called.

Q. Okay. So this is describing the work that needs to be done is in the e-mail, and then the form is basically just having somebody approve it?

A. This form, the main parts of this form is what it says here, the date and so forth, and this approval here. So that's the meat of this form here.

Q. Who fills out the form? I know Maurice Jenkins signed it but --

A. The form is normally filled by one of the customer service reps.

Q. At the County?

A. At the County.

Q. So the County gets information from NextiraOne saying, generally, this customer wants A, B and C done?

A. I need an IPON to do this kind of work.

Q. And then one of the County service

customer people fills out the form requesting telecommunications service which would go to you or Maurice who would then approve it, or do you both have to approve it?

A. Maurice has to approve it. Maurice has to approve any expenditure, and if it's above a certain amount, his boss has to do that.

Q. Are all five of these forms signed by Maurice?

A. Well, I don't know who this thing is. It's a very fancy --

Q. Very fancy -- the third one?

A. I don't recognize this signature. Normally Maurice would sign it or Bobbie Phillips.

Q. Bobbie Phillips is Maurice's boss?

A. Right.

Q. Are you familiar with something used at the airport called a customer service order?

A. Yes, this (Indicating).

Q. All right.

A. Otherwise called IPON.

(Plaintiff's Exhibit 23 was marked for identification.)

BY MR. BLOOMBERG:

Q. Okay. Let's look at Composite 23 which

is a series of documents entitled customer service orders. Are you familiar with those documents? Hold on. Give it back to me. There's something stuck in there -- just pull out the last -- that will be the next one, so --

A. Okay.

Q. Are you familiar with those documents?

A. I am now.

Q. What are they?

A. This is a document that is more at the working level that the -- let's say when a technician goes to perform a job --

Q. Right.

A. -- they get this sheet and the customer signs and the technician signs. Basically it's a corroboration that the work has been done and the customer has accepted the charge of the work that was done.

Q. All right. In terms of time, explain to me where the customer service order fits in with the telecommunications request for telecommunications services, Exhibit 22?

A. All right. That is the authorization --

Q. 22?

A. 22 is the authorization to do some work.

When the technician goes out to do the work, this form comes into place, this customer service order, and then in this form here the technician would have the -- when he's finished, the customer would sign this to say, you know, I'm okay with the work, and the customer would corroborate on the dime that he spend on the order, installing and so forth, so we can charge the customer for the time.

Q. So in sequence what would happen is once the telecommunications request for communications service was signed and approved, some other form -- the technician would be told you go out and do this work?

A. That's right.

Q. And the technician would bring with him or her the customer service order which the customer would sign after the technician completed the work?

A. That's correct. And it's a corroboration, again, of the time the technician spent and he signs to say I worked one hour or two hours or whatever.

Q. Right. It reflects the technician's number, when he or she started, when he or she finished and what was done?

A. Right.

Q. So in theory, should there be a completed telecommunications request for communications service that would match up with each customer service order in an ideal world?

A. Yes, in theory, yes.

Q. In theory, if the system was working properly, a customer service order would not be generated until after a telecommunications request for a communications service was signed and approved?

MR. HOPE: Objection to form.

A. That's correct.

Q. Were all of the technicians Nextira employees?

A. Yes.

Q. All right. Is that why all of the --

A. Wait. They -- they can use some subcontractors in some cases which they do for installation of cable mostly, and that's in the contract and that's perfectly okay to do that and they get the billing and we check that and so forth.

Q. Would that be why the customer service orders are all either Williams or Nextira forms

because it's their employees or subcontractors?
A. That's correct.
Q. And the customer service order forms, would it be possible that they could relate to installation of equipment?
A. Yes.
Q. Repairs of equipment?
A. Yes.
Q. Simple things like I'm not getting any dial tone, anything like that?
A. Any malfunction or any new installation or equipment of service.
Q. And that's because the County is responsible for maintaining the service?
A. That's correct. In some cases it's billable to the customer and in some cases it's not. We have to absorb if it's after hours.
(Plaintiff's Exhibit 24 was marked for identification.)
BY MR. BLOOMBERG:
Q. Let me show you what's been marked as Exhibit 24 for the purposes of the deposition and ask if you recognize that document, the document entitled Nextira STS Work Orders for DCAD, Orders through 2002?

A. It seems to be they're still work orders.
Q. Who was that prepared by, do you know?
A. It's prepared by Nextira.
Q. And submitted to the County?
A. Yes.
Q. When you say work orders, Nextira work orders, how does this document, Exhibit 24, relate to the documents that are a part of Exhibit 23, the customer service orders?
A. The work order could be a number of things. That's a very generic name. As it refers in this case, the work order is IPON that you see here. It's also called a work order and this obviously is the IPON number and the status and the customer and the description. And as I explained before, that work order that you have in there, the technician, Exhibit 23 is part of the process of the installation that happens after the IPON has been generated and approved.
Q. Is Exhibit 24 like a summary report?
A. That's what it is.
Q. So again, in an ideal world I should be able to go through or you should be able to go through all of the records of the County and find

IPON 02-001 STS which would tell you what work was supposed to be done on that particular work order?
A. Yes.
Q. And in this case it says the status is completed, and I realize certain things are blacked out, redacted, but in the accounting records there should be a backup to support that this particular work was done?
A. That's correct.
Q. And if I go through all my documents, it probably is in there also or hopefully.
Did the County require or DCAD require Nextira to submit summary reports on a regular basis?
A. The agreement that is signed that we went through before has a list of reports, weekly, monthly, quarterly and yearly that Nextira is supposed to provide the County.
Q. And those reports are generally done?
A. Yes, they mostly come to me or the people that work for me.
Q. So you would be responsible for reviewing those reports?
A. Yes.
Q. Or at least the people that worked for

you that reported to you?
A. Yes.
(Plaintiff's Exhibit 25 was marked for identification.)
BY MR. BLOOMBERG:
Q. Let me show you what's been marked as Composite Exhibit 25. I think we looked at one of those similar forms before. I'll ask you to take a look at --
A. Okay.
Q. Okay. Let's look at the first stapled group. You can take off the clip.
The first four pages are Bates Nos. 17222 through 225, all appear to relate to something called TSR02060012.
A. Yes.
Q. Am I correct there?
A. Yes.
Q. And do all four of those pages relate to the same work?
A. It could be. It looks like it is because the TRS number is the same.
Q. Would that be the way to try to identify it by looking at a TRS number or an IPON number and say these work order process numbers, TSR marks

relate to the same project?
A. Yes.
Q. Now, can you tell me what work was requested here under this TSR?
A. It seems like this -- there's work to be required on four telephone lines used for modems, connections, and they need duplicate line appearances.
Q. All right. So the customer wants some telephone lines put in?
A. Yeah, they want four lines and then they want some other changes.
Q. Towards the bottom of the first page it says date received by work flow. Who's work flow? What is work flow?
A. This is just an internal word that Nextira uses. Probably when they got the go ahead to proceed with the work.
Q. Okay. And in point of time -- you said you got the other documents --
A. This is a Nextira form, by the way.
Q. Okay, a Nextira form, it goes to the County and the County obviously has a copy of it because you produced it for me.
A. Once we approved the initial IPON, this

is their form to -- they keep track of the work and it changes what's going on. I mean --
Q. Who is they, Nextira?
A. Right.
Q. But these forms were all produced to me by the County. So the County obviously had possession of these forms at some point?
A. They're produced by Nextira.
Q. No, no. I got them from the County. I'm just trying to find out how -- I made a request for production to the lawyer for the County. David produced 19,000 pieces of paper. These were amongst the 19,000 pieces of paper. I'm assuming that the County had possession of these forms at some point because I don't think they would have produced them if they didn't have them.
A. They were produced by Nextira --
Q. Right.
A. -- and then they're given to us as the backup -- when the order comes to us for approval or for billing, so forth. This is the backup information they give us to make sure that everything went okay. They do stuff on our behalf. They produce it or they give it to us.
Q. Right.

In terms of the process itself, point of time with respect to the document Exhibit 22, Telecommunications Request For Communications Service, when would the County receive Work Order Processor - TSR Remarks, would you receive them before the Request For Telecommunications Services or after or both?
A. Probably in both cases. This is after the fact when they need to get paid for something. Sometimes the approval for the expenditures we don't really know exactly how much is it going to be until after they do it.
We give them an IPON not to proceed or something like that until approval. So when they have the final numbers, the actual details come in this form in a package and this is the backup information and then we -- it is approved for payment.
Q. So in other words, you approve that the County has approved the work and a Nextira technician or a subcontractor goes out and does the work --
A. The initial IPON, even though that the ones that we sold before Santo Maurice (phonetic), that their was no dollar amount in any of those.

So basically it was authorization to do some amount of work that is okay. And after the work is done, this is the more detailed information, and it would have documents in front with dollar amounts and things like that.
Q. So in other words, what I presented to you here as Exhibit 24 is not necessarily a complete package?
A. No, it's not.
Q. Because it would be something that would show the time involved, the materials involved --
A. That's right.
Q. -- and there's a pass --
A. And then a dollar amount that we have to approve so that Nextira will get paid by whatever work they did.
Q. And then with respect to the bill, if this was something that you could bill the customer for, that would appear on the next invoice or some invoice to the customer?
A. That's right. Nextira would generate the bill, it would come to us and we would get to the customer and the customer would send the check to the County. But this is to pay for the expenses that Nextira incurred on our behalf to provide the

service.
Q. Right. And it might or might not be billed to the customer --
A. That's right.
Q. -- depending on what the service was?
A. If it's a repair and we were supposed to, then there would be nobody.
Q. Let me go down to the next document which starts with the 05463 which looks like -- you're okay. It's right. It's the next document which appears to be an e-mail -- the top of the e-mail it says from Guelsys to Holly, which obviously is not the first e-mail.
So as I understand it, somebody named Jaime Marriaga at the bottom of the page has requested Holly to issue an order to install two telephone lines?
A. Yes. There's another person working for Avianca.
Q. You're not supposed to say that, but Jaime being the customer, the ultimate customer.
David doesn't want me to know who the customers are but that's okay.
A. I didn't know.
Q. So Jaime requests from Holly Please

issue an order to install two telephone lines; correct? E-2626?
A. Yes.
Q. The way the process goes, Jaime then sends an e-mail to Guelsys to ask for an IPON; is that correct?
A. Jaime sends a request to Holly, which is the Nextira person, to install two telephone lines.
Q. Correct.
Holly then has to go to the County to say Jaime here or whatever company Jamie works for wants to install two telephone lines?
A. And Guelsys needs to issue an IPON to authorize the work.
Q. The IPON, whatever those initials stands for, is the authorization to do the work?
A. Right. It needs to be approved by Maurice, and that's the one we send --
Q. And the next page is a Work Order Processor form. Now, is that being sent by Holly to Guelsys saying pursuant to Jaime's e-mail, please issue an order, or who is she sending that to? Who is Holly sending 005464 to?
A. Talking about this --
Q. The second document, yes.

A. This is, again, the same form -- that is an internal -- is a Nextira-generated document in which they now put everything in their formal way what's in this e-mail here --
Q. Right.
A. -- to start actually identifying the work that needs to be done and to start --
Q. I understand that, but the document 005464, would that document be sent to Guelsys or somebody who works for Guelsys? And the only reason I ask that is please issue an order to install.
A. That is a quote from the e-mail.
Q. Right.
A. Again, it's just backup information for Nextira to justify later on that they had proof that we told them to do so. So they're quoting the e-mail that's in the front here.
Q. But where is the proof here that -- and maybe I'm confused. Where is there proof here that the County approved this work?
A. It's not here. It's supposed to be an IPON like this that would be given to them to start the process. That is missing in this pile.
Q. In this package, okay.

A. She's requesting that please generate an IPON. By that she means give me one of these signed and approved by --
Q. Maurice.
A. -- so that I can do this.
Q. As I understand it, Nextira was not supposed to do any work without County approval?
A. That is correct.
Q. And if they did, they were running the risk of not getting paid for it?
A. That's correct.
Q. If you want to work, have a good time but don't come to me for any money?
A. Well, just like any County employee, they can't spend County money without getting approval to do so.
Q. Are you familiar with the acronym P-O-T-S, POTS?
A. Yes.
Q. What does that mean?
A. Plain Ordinary Telephone Service.
Q. What does that mean?
A. The phone, the black phone you used to have at your house -- not necessarily black but -- plain old phone service.

MR. BLOOMBERG: Plain old telephone service, okay.
We'll take five minutes.
(A break was taken.)
(Ms. Lee is not present.)
(Plaintiff's Exhibit 26 was marked for identification.)
BY MR. BLOOMBERG:
Q. All right. Let me show you what's been marked as Composite Exhibit 26 which are documents generally marked proposal transmittal. I'll ask you to take a look at those and tell me if you recognize that.
A. Okay.
Q. Do you recognize these documents?
A. I've never seen the transmittal form but it seems like a -- normal. I've seen the other ones, yes.
Q. All right. Tell me what you know about any of the documents in any of these faxes.
A. Yeah, the first one just seems to be a transmittal to tell you what's contained in the package. It's a proposal that Nextira has made to a customer for some scope of work.
Q. Is there anybody mentioned here who is a

County person?
A. This is addressed to Maria Perez, who is a supervisor for the County, and Lorraine is a County person --
Q. Okay.
A. -- from Ray Delerme, which is a Nextira person, and the signatures on here are all Nextira people.
Q. Okay. So Nextira is submitting something to the County saying here is what's been proposed?
A. Right. And this is the -- this is the -- to do the work, this is when it comes back to us to approve the actual exact amount of dollars that was --
Q. So this would be after --
A. After all the other things that we have approved before. After the initial IPON that is approved, then the work order that the technician puts in, the actual hours and all that and then eventually it gets converted to actual dollar amounts of what they've done, and this is what that sheet is. They approved it and then these two lines are not approved here which would be -- this would be County approval.

Q. For the signature?
A. Right.
Q. So the four signatures that are on the second page --
A. Those are Nextira signed -- the four signatures are Nextira. The ones that are blank, those would be County approvals.
Q. So these four signatures from Nextira are on the second page, 18250, seem to indicate that the work was done, and here's the cost?
A. Right.
Q. What's the next page, 18251?
A. This is basically a more detailed description of the work that needs to be done and the proposal and schedule.
Q. In point of time, when would the County receive that document?
A. This usually comes together with this -- this. This is a justification for this expenditure.
Q. Justification for what appears on Page 2 of the exhibit?
A. Right.
Q. Next, what's internal financial summary, what is that, if you know?

A. It's a Nextira form, but I don't -- but I don't recognize the engineer. It would be a form submitted to Nextira by one of their subs.
Q. But this form generally goes to the County?
A. It comes in the package. It doesn't come that often. I've never seen it that -- it looks like a subcontractor for Nextira that provided -- that did work for them.
Q. Would that be the same, we have one that's called internal financial detail, you go down further internal quote notes, internal material detail, internal labor detail --
A. Yes, all these things are.
Q. Go to the page that's got a Bates number 18260. 8818620, are you familiar with that form?
A. Yes.
Q. What is that?
A. Again, this is -- this is a summary form of the expenditures that they are sending to the County for approval.
Q. And the number matches?
A. Normally sign this form right here and approve this -- the expenditures.
Q. And the number matches up with the

number on Page 2 or at least it should, $2,362.50?
A. Right.
Q. Now, this says service approved by MDAD, order of completion signed by MDAD. Is that on this form or on some other form?
A. Services approved by MDAD, that would be the initial approval that we get on approval.
Q. Order of completion signed by MDAD, where would that be signed?
A. I don't know why that's this. Usually we approve -- we approve the expenditures. It's the same thing that the order is completed and it's waiting to be paid. To me it's the same thing.
Q. And then we have one of these work order process forms, the next page; is that correct, which we already talked about?
A. Yeah, this is the same one.
Q. Right.
The next page is signed by -- is that Maurice?
A. That's Maurice.
Q. All right. Who else was supposed to sign besides Maurice?
A. It's Maurice up to a certain level of approval and then Bobbie would.

Q. So Bobbie didn't have to sign this one?
A. No, for 2,000. Maurice can go up to 5,000.
Q. The customer service orders which we've talked about?
A. That's the more detail the technician fill out. All of this is backup information.
Q. So this appears to be pretty much a complete package?
A. Yes.
Q. And that would be the package that would ultimately result in Nextira getting paid?
A. Correct.
Q. And then the next decision would be whether or not this was something that could be billed to the customer?
A. Correct.
Q. In this case we're upgrading something, so maybe it could be billed as opposed to preparing?
A. Yeah, if it's billable, Nextira will generate the billing.
Q. On the customer's invoice for the next month?
A. Right.

Q. The second part of the exhibit, without going through each page, is there anything different about that? I realize that there aren't any documents, but is there anything in here that's different than what we talked about? It doesn't appear to be.
A. This is, again, just detail of the work that is involved in the order.
(Plaintiff's Exhibit 27 was marked for identification.)
BY MR. BLOOMBERG:
Q. Let me show you what's been marked as Exhibit 27, composite also, for purposes of deposition which appears to be a series of forms entitled scope of work --
A. This is the same form that was included in the previous package. It goes usually behind the one that has the dollar amounts to be paid, and it's just an explanation of what is asked to be approved for payment.
Q. This is a little bit more detail?
A. Again, this usually comes with -- with something with dollars in the front that we're requested to approve, and this would be an explanation of what we're to spend for.

Q. When it says environment on the first page, 5155, MDAD provides both voice and data services for multiple locations, is Miami-Dade Aviation Department, is that MDAD, the initials, provides both voice and data service?
A. Um-hum.
Q. The next one says MDAD provides voice connectivity for several USDA locations. Why is the current environment different? I don't understand.
A. Because this part that was blacked out has the name of the customer, and the one that is for this particular customer was blacked out. The other one was for U.S. Department of Agriculture.
Q. And then on the fourth page of exhibit it says MIA currently provides both voice and data services at Miami International Airport.
A. What was the question?
Q. The fourth page, 8370 --
A. The current environment is just telling you who the customer is and where they're located.
Q. Well, in one place it says MDAD and the other place it says MIA?
A. Both should be MDAD.
Q. They're saying that the airport provides

certain things?
A. Right.
Q. The last group in the exhibit looks to be the complete package we talked about before or much more similar to the complete package; right?
A. You're talking about --
Q. From 18601, starting 18601. It's the group that's stapled, probably easier to find it. That's much more similar; right?
A. Right.
(Discussion off the record)
BY MR. BLOOMBERG:
Q. Who's Paulette Gilbert? Does she work for MIA, do you know?
A. It doesn't ring a bell.
Q. Miami-Dade Aviation Department Properties Division?
A. Well, that's what it is then.
Q. But the name doesn't ring a bell?
A. The name doesn't ring a bell. That doesn't mean --
Q. I understand. There's a lot of people there. This is not a --
A. I've only been there two years.
Q. Are you familiar with the agreement that

was approved, Airport Rental Agreement between the County and its STS customers?
A. Yes.
(Plaintiff's Exhibit 28 was marked for identification.)
BY MR. BLOOMBERG:
Q. Let me show you what's been marked as Exhibit 28 for purposes of the deposition which appears to be another copy of the memorandum from Manager Shiver to the board recommending approval of an agreement.
Were you involved in either the drafting of that memorandum or in providing information relating to that memorandum?
A. I'm sorry. Could you repeat.
Q. Yes.
Were you involved -- let me break it down -- in the preparation of that memorandum?
A. I probably provided some information to the person that put this thing together in terms of technical content or --
Q. The manager was recommending a specific form of agreement to be used?
A. I believe this was the approval of the contract form --

Q. Right.
A. -- that would be used by the aviation department or the County to enter into an agreement with the customers for services.
Q. And there was some breakdown as to the dollars received by the County or to be received by the County as $2,670,000?
A. Yes, this number is what --
Q. The year before?
A. Was received at the time that we entered into an agreement with Nextira.
Q. By the way, how much did the County receive for the first year of the operation of the agreement, do you remember?
A. We're about -- the level right now is around -- it's a little less than 2 million, 1.9 million.
Q. So revenue is down a little bit?
A. Yes.
Q. That's because of the economy --
A. It depends on -- yeah, 1.9 something, somewhat less than 2 million.
(Plaintiff's Exhibit 29 was marked for identification.)

BY MR. BLOOMBERG:
Q. Let me show you 29, Exhibit 29 which appears to be the resolution and the Airport Rental Agreement itself and ask you if you're familiar with both of those documents.
A. Okay.
Q. And am I correct that the first document is the resolution --
A. Yes.
Q. -- and the second document is the Airport Rental Agreement?
A. Yes.
Q. Has the County or the Aviation Department signed Airport Rental Agreements with all of its customers?
A. With the new customers --
Q. New customers.
A. -- since the resolution was approved.
Q. Okay.
A. For the time that the -- we never went back and actually executed this agreement with the existing customers. Previously they had agreements with Nextira, so we -- that continue on and only -- only with -- only new customers that came into effect after this contract was approved where

basically there was basically an agreement executed with those customers by the County.
Q. I have never seen --
A. I think there's been about two or three.
Q. New customers?
A. Something like that.
Q. I have never seen the pre-February 2nd, 2003 agreement. How does the current Airport Rental Agreement differ from the agreement that the customers signed with Nextira?
A. This thing was modified by counsel and by other folks involved. I would assume it's somewhat similar.
Q. You don't really know? You can't answer the question?
A. Not absolutely.
Q. Not without comparing it line by line?
A. Right.
Q. So there are only a couple, two or three customers that have signed this particular agreement?
A. That's right.
Q. And I'm not holding you to the -- I mean it could be four. I won't quote you a liar if it's four.

MR. BLOOMBERG: David, give me a couple minutes.
(A break was taken.)
MR. BLOOMBERG: All right. Mr. Garcia, you have the right when this is transcribed, which it will be, to read it --
MR. HOPE: You want to read it.
MR. BLOOMBERG: He wants to read. I'll order it.
(The deposition was concluded at 2:51 p.m.)
(Reading and signing not waived.)

_____
PEDRO J. GARCIA

_____
Notary Public
My Commission Expires:

CERTIFICATE OF OATH

STATE OF FLORIDA :
COUNTY OF DADE :

I, the undersigned authority, certify that PEDRO J. GARCIA personally appeared before me and was duly sworn.

WITNESS my hand and official seal this 5th day of June, 2003.

_____
LANCE W. STEINBEISSER, RPR, CSR
Notary Public - State of Florida
My Commission No. DD021980
Expires May 4, 2005

REPORTER'S DEPOSITION CERTIFICATE

I, LANCE W. STEINBEISSER, Registered Professional Reporter, certify that I was authorized to and did stenographically report the deposition of PEDRO J. GARCIA; that a review of the transcript was requested; and that the transcript is a true and complete record of my stenographic notes.
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 5th day of June, 2003.

_____
LANCE W. STEINBEISSER, RPR, CSR

June 5, 2003

David Stephen Hope,
Attorney at Law

RE: BELLSOUTH V. MIAMI-DADE COUNTY
Dear Mr. Hope:
With reference to the deposition of PEDRO J. GARCIA taken on May 21, 2003, in connection with the above-captioned case, please find enclosed the transcript of said deposition.

Please arrange to have the witness read your copy of the transcript, denoting any corrections by page and line number on the enclosed errata sheet. This errata sheet must be signed by the witness, notarized and returned to Mitchell R. Bloomberg, attorney for the plaintiff, for filing with the original transcript, which has been sent to counsel.
If this has not been taken care of within the next thirty days or by the time of trial, whichever comes first, it will then be concluded that the reading, subscribing and notice of filing have been waived.

Sincerely,

CERTIFIED SHORTHAND REPORTERS, INC.
cc: Original transcript
M. Bloomberg, Esq.

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Exhibit C

IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

BELLSOUTH TELECOMMUNICATIONS, INC.,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant.

VIDEOTAPED DEPOSITION

OF

PEDRO GARCIA

Suite 1200
100 Southeast 2nd Street
Miami, Florida

Thursday, October 28, 2004
11:15 a.m.

APPEARANCES

For the Plaintiff:
MARTIN B. GOLDBERG, ESQ.
Lash & Goldberg, LLP
Bank of America Tower, Suite 1200
100 Southeast 2nd Street
Miami, Florida 33131
SHARON R. LIEBMAN, ESQ.
BellSouth Telecommunications, Inc.
150 W. Flagler Street
Suite 1910
Miami, Florida 33130
DORIAN DENBURG, ESQ.
BellSouth Corporation
1155 Peachtree Street
Suite 1700
Atlanta, Georgia 30309

For the Defendant:
DAVID STEPHEN HOPE, ESQ.
Miami-Dade County Attorney's Office
Miami International Airport
Terminal Building
Concourse A, Fourth Floor
Miami, Florida 33122

Also Present:

Alvis Wayne Tubaugh

- - - - - -

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Witness	Direct	Cross
PEDRO GARCIA	5	--

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THE COURT REPORTER: We are here today, Thursday, October 28, 2004, at approximately 11:15 a.m., for the videotaped deposition of Pedro Garcia, in case number 02-28688. BellSouth Telecommunications, Inc. versus Miami-Dade County, a political subdivision of the State of Florida.

The videographer is Jason Cooper, of Video for the Legal Profession, Inc.

The reporter is Fanny Kerbel, of Kresse and Associates.

Would counsel announce their appearances for the record, please.

MR. GOLDBERG: For plaintiff, BellSouth Telecommunications Inc., Martin Goldberg, with the law firm of Lash and Goldberg. Also present with me is Dorian Denburg and Sharon Liebman, from BellSouth Telecommunications, Inc., BellSouth Corporation.

MR. HOPE: David Stephen Hope, Assistant County Attorney, on behalf of Miami-Dade County.

THEREUPON:

PEDRO GARCIA,

a witness named in the notice heretofore filed, having been first duly sworn, deposes and says as follows:

DIRECT EXAMINATION

BY GOLDBERG:

Q. Mr. Garcia, good morning. How are you?

A. How are you?

Q. Just to formally introduce myself, because we never really had the opportunity to meet before except briefly outside, my name is Marty Goldberg. I am an attorney. I represent BellSouth Telecommunications, Inc. in a lawsuit that has been filed against Miami-Dade County.

As part of that lawsuit we are here today for a judicial proceeding, otherwise known as a deposition. You have appeared to continue, actually, a deposition.

What I am going to do is, before we go into the substance of the deposition I just want to go over a few ground rules and make sure you have an understanding of those ground rules, and then we will proceed to go into the deposition. Is that okay with you?

A. Yes, it is.

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Q. Just as a preliminary matter, you have been deposed before in your career, correct?
A. Yes, sir.
Q. In fact, you have been deposed in this case previously, correct?
A. Yes, sir.
Q. So I am going to keep my ground rules short, since I believe you probably understand how deposition operates. I want to make sure you understand just from my perspective what I expect and I think what your attorney expects here today.
I will ask you a series of questions. Because you are under oath, every question that I ask you are obligated to provide a truthful, complete, non-misleading answer to me. Do you understand that?
A. Yes, sir.
Q. If at any time I ask you a question that you do not understand or that confuses you in some respect, I would appreciate it if you tell me that instead of providing an answer so that I could better ask the question so that we can make sure before you provide an answer here today, since you are under oath and your testimony is being recorded both by the court reporter and video, that before

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you give an answer we want to ensure that you understood the question.
A. Understood.
Q. Okay. My purpose here is not to confuse or mislead you. There may be questions that you don't understand. So, please, you know, ask me to rephrase it or restate the question.
A. Okay.
Q. If at any time you want to take a break, please let me know and we will find a convenient breaking point. We will give you that opportunity.
Of course you have mentioned the issue about lunch. We will accommodate you with respect to that. There is no problem there.
Your attorney has the right to object to certain questions that I ask. Unless he instructs you not to answer, please give him the opportunity to make his objection. But then at the end of his objection, you will be required to answer the question in any event. Do you understand that?
A. Yes, I do.
Q. You also understand that you are here as a fact witness. The purpose of your deposition here today is just to tell the truth and present us with the facts as you know them. You are not here as an

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advocate. That job rests with Mr. Hope and the Court and myself later on. But from you, all we expect is the truth and the facts. Do you understand that?
A. Yes, I do.
Q. Let me begin by just showing you what I will mark as PG-30, and ask you, is this the notice of taking continued deposition that you are here on today?
A. Yes, I recognize the document.
(Thereupon, Notice of Taking Continued Videotaped Deposition was marked as Plaintiff PG's Exhibit 30 for Identification.)
Q. Just for the record, since this is a little bit of an unusual procedural issue, you understand that you are here to continue a corporate representative deposition, where BellSouth has asked that the corporate representative of Miami-Dade County appear with the most knowledge of MDAD's provision of local service to MDAD's tenants and MDAD's statement in its response to interrogatory number three, dated March 1st, 2004, that MDAD does not charge MDAD tenants for local service.
Do you understand that to be correct?

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A. Yes.
Q. Do you also understand that you are here to continue the deposition that was originally started on August 5th of this year, where the County had initially designated Maurice Jenkins as the corporate representative?
A. Yes.
Q. And just for the record, we are going to keep a series of exhibits. I will show you what has been marked as MJ-1 and ask you whether you have ever seen that document previously.
I will help you out. This was the original notice of taking videotaped deposition that resulted in Mr. Jenkins appearing on August 5th of 2004. My question to you is: Did anybody at the County ever show you this notice or discuss this notice with you prior to August 5th of 2004?
A. I don't recall this particular notice. I have seen this one, but not -- I don't recall seeing this one (Indicating).
Q. Did you have any discussion prior to August 5th of 2004 with anybody at the County about the possibility of you appearing as the County's corporate representative to answer questions about MDAD's provision of local service and the

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interrogatory response, all of which is detailed in MJ-1, as well as PG-30?
A. Did you say prior to August 5th?
Q. Yes, sir.
A. I don't recall.
Q. You say you don't recall --
A. I don't recall having any conversation.
Q. As you sit here today, do you think you would recall having such a conversation if you di in fact have a conversation about it?
MR. HOPE: Objection to form.
THE WITNESS: I can't say.
Q. You can answer.
A. I can't say.
Q. So you don't recall any conversation about the original notice prior to August 5th?
A. No, I don't.
MR. GOLDBERG: Let me mark the next exhibit as PG-31. For record purposes as well as you, Mr. Hope, I marked, as you recall in the original initial deposition, the exhibits as MJ-1 through 29. Just to continue on, what I am going to do is just mark them PG-30, and then forward.

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MR. HOPE: No problem.
MR. GOLDBERG: This will be PG-31.
(Thereupon, 10-26-04 Letter was marked as Plaintiff PG's Exhibit 31 for Identification.)
Q. I am showing you what has been marked a PG-31. This is a letter that my law firm wrote to the County Attorney, Mr. Hope in this case, dated October 26th, 2004. Were you shown this letter prior to the deposition?
A. No, sir.
Q. In the letter my law firm asks Mr. Hope for the County to produce at this deposition two documents; notes made by Mr. Jenkins that he referred to in the initial part of this deposition, as well as an e-mail that was sent by you to Mr. Jenkins, according to Mr. Jenkins, to help hir prepare for the initial deposition.
Have you been provided with those documents to present here today?
A. I have seen an e-mail. I am not sure -- I haven't seen the notes that Mr. Jenkins has.
MR. HOPE: If I may.
MR. GOLDBERG: Yes, please.
MR. HOPE: I am handing to counsel

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the e-mail, which is the only document that Maurice Jenkins was able to find. It is an e-mail from Pedro Garcia, sent Tuesday, August 3, 2004, at 3:27 p.m., to Maurice Jenkins. Subject is STS local service provisioning.
And it reads: "For the provisioning of local service to STS customers, MDAD charges for:
"The port in the PBX to connect the STS customer.
"The STS phone line and the cable associated with it.
"There is no additional charge for dial tone or for a local call completion. The PBX access to the public network is through BellSouth trunk lines. Long-distance charges are passed through without any surcharges. At this time, there are no STS voice service customers in any of the GA airports."
MR. GOLDBERG: Thank you. Just to complete the record, we made a request, and the request premised on an instruction at the prior deposition for

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Mr. Jenkins to maintain his notes that he had made in preparation for that deposition. Has the County located those notes?
MR. HOPE: It is my understanding that there were no notes. Mr. Jenkins stated in the deposition that he might have had notes. He looked. He saw he did not have any notes, and all he was able to find was the e-mail that he also spoke of which he said he thought there was an e-mail.
MR. GOLDBERG: Well, I think the transcript reflects otherwise; that there actually were notes. They were sitting on his desk. I instructed him to maintain them. But for purposes of this deposition, since he is not here, that is just something we will have to resolve at a later date.
MR. HOPE: No problem.
MR. GOLDBERG: So we will move on.
Q. Mr. Garcia, I will hand you now what will be marked PG-33. The question about this document which is a transcript of Mr. Jenkins's testimony on

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August 5, 2004 is: Have you been shown this transcript prior to your appearance here today?
A. No, I have not seen this document.
Q. In preparation for this deposition you have not reviewed the transcript of Mr. Jenkins's August 5, 2004 deposition?
A. I have not seen this document.
Q. Have you seen the testimony of Mr. Jenkins's on August 5, 2004, whether it be in this document or any other document?
A. I saw a document that contains some questions that were asked of Mr. Jenkins and his answers. However, I don't believe it was this extensive or in this format.
Q. Fair enough. Let me see if I can help you out then with my next question. I am going to mark the next exhibit as PG-34 and show you another document, and that might help you.
I am showing you now what is PG-34, and that is another letter from the law firm of Lash and Goldberg, my law firm, to Mr. Hope, dated August 2 2004. Just to place it in context for you, this letter was written after Mr. Jenkins's initial deposition on August 5th.
Have you seen this document?

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A. Yes, I have.
(Thereupon, 8-3-04 E-mail was marked as Plaintiff PG's Exhibit 32 for Identification, Maurice Jenkins Deposition was marked as Plaintiff PG's Exhibit 33 for Identification, and 8-25-04 Letter and Attachments were marked as Plaintiff PG's Exhibit 34 for Identification.)
Q. So tell me when you first saw this document.
A. Maybe three weeks ago, or something like that. I don't know exactly the date.
Q. Where were you --
A. A lot of times they give me the documents. I keep them there and I read them when I have the time. So I am not sure exactly when I read them.
Q. Understood. Where were you when you saw it?
A. I was in my office.
Q. Who was present with you?
A. No one.
Q. Who showed it to you?
A. I recall it was given to me by -- I am trying to think back how I got them. I really don't

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remember whether it came via mail to my office or they were given to me by someone. I really can't recall. I know that I received the document and I read it.
Q. When you read it, did you make any notes?
A. No. I just basically yellow -- I remember maybe I yellowed out a couple statements, but I didn't write on the document.
Q. Do you still have the document where you put yellow on a few of the statements?
A. I might. It might be in my files in my office.
MR. GOLDBERG: Similar to the last deposition, Mr. Hope, I am going to ask the witness and yourself to maintain that document that he has just identified where he reviewed the August 25, 2004 letter. I will ask that it be produced at a later date.
MR. HOPE: Okay. I will ask that when you want it produced, to give me something formally.
MR. GOLDBERG: Absolutely. Will do.
Q. So you understand, Mr. Garcia, if you could, after this deposition today and of course you

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can seek the advice of your attorney with respect to this, I would like you to go back and try and locate that document for me and maintain it so it doesn't go anywhere. Okay?
A. Yes.
Q. Thank you. After you reviewed the document and made some notations on it, did you have any discussion with anybody about this letter?
A. About this document?
Q. Yes, sir.
A. Not about the document, per se. As far as going over the material in the document, no.
Q. Just to be clear, the letter outlines -- and I don't want to take the time to read each and every statement in it, but you would agree with me that this letter outlines a number of areas of questioning that Mr. Jenkins testified that he did not know the answer to. Would you agree with me on that?
A. Yes.
MR. HOPE: Objection to form.
Q. You can answer again. Do you agree with me on that?
A. I saw some answers that he didn't -- some questions that you asked that he didn't know the

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answers.
Q. Have you had any discussion with anybody at the County about those particular questions that Mr. Jenkins could not answer prior to your appearance here today?
A. I asked our telecomm -- not about the questions in particular. I asked our telecommunications provider, NextiraOne, a couple c things, basically, to make sure I have information in case I was asked the same questions since I am supposed to be the expert.
Q. Fair enough. And I appreciate that. Obviously, what you are doing, correct me if I am wrong, you were doing some due diligence to be abl to come and answer those questions.
A. Yes, sir.
Q. Is that fair?
A. Yes.
Q. In doing the due diligence, did you make any notes or gather any documentary information to help you answer these questions here today?
A. No. I basically knew the answers. I just wanted to make sure they were correct. So I just corroborated my thoughts with the asking of those questions.

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Q. That is fair. Can you just tell me who you spoke to at Nextira initially -- I will talk to you about Nextira first -- to confirm your understanding as to these questions?
A. I believe -- well, I spoke to Ben Tevis. He is a supervisor for NextiraOne. And Holly Klat she is the person that basically handles the STS services at the airport.
Q. Okay.
A. And those are basically the two people that I spoke to.
Q. In also doing your due diligence to prepare to come here today, aside from these individuals, two individuals at Nextira, did you have discussions with anybody else at the County o at the airport?
A. No. I think those are the folks that provide the services on our behalf or handles our telecommunications areas. I just -- basically, those are the ones that I spoke to. They should have the right facts, if my information was correct.
THE COURT REPORTER: Excuse me. I don't mean to interrupt, but I really need you to speak louder.
THE WITNESS: Okay.

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Q. (By Mr. Goldberg) Did you have any meetings with anybody to prepare for this deposition today?
A. We had a reunion, a meeting yesterday, with those folks that I mentioned. Well, Holly wasn't there. So it was a person that is filling in for her, whose name is Michelle Washington, I believe.
Basically, it was just to make sure, again, one more time, that the facts -- that the information that I had in my mind about certain things was accurate and that I could answer, you know, the questions in a correct fashion with the right facts.
Q. Understood. I understand the purpose of the meeting. Let's talk about the meeting, if you don't mind.
A. It was only on the actual general way we do things at the airport. It was not going over the questions in the deposition.
Q. That is what I am going to ask you about. First list for me who was at the meeting.
A. Ben Tevis was there, Michelle Washington, and Mr. Hope was there, and --
Q. Where did the meeting take place?

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A. William McGlashan was also there. He is the manager of -- the overall manager of NextiraOne. It took place in a conference room next to my office.
Q. What time did the meeting start?
A. It was from three to four in the afternoon.
Q. Did you take any notes during that meeting?
A. No.
Q. Do you know if anybody from Nextira took notes during the meeting?
A. I don't think so. They were just answering questions that I had.
Q. What questions did you ask at that meeting?
A. We went over the basic path of the -- it was mostly a very technical meeting, going over the voice path from the telephone to the demarkation of BellSouth and how the path goes through the BellSouth -- through BellSouth lines to the public network, and so forth. And a couple of questions on how exactly do we charge -- some of the items in the billing that I wanted a more clear explanation of what actually the billing consists of and the --

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that we send to the users that we provide equipment leases to the air -- we lease some equipment to customers of -- to tenants of the airport, and I wanted to clarify a couple of those line items in the bill.

So I understand that was one of the questions that you were going to have, so I wanted to make sure I had answers to all those items.

Q. At the meeting, did you have any -- did you have this August 25th, 2004 letter, PG-34?

A. I was just asking questions. I pretty much had in my head what I wanted to ask.

Q. Did you have any other documents that you were asking about?

A. I had my -- I have a file with all this -- let me correct what I said before. I have a file with all these papers, which I haven't even gone through in detail, to be honest with you. I don't have time. I probably brought them in the file, but I didn't go through them during the meeting. They were just sitting there. They were pertaining to what I was trying to do. I didn't go through them and review the content with the persons in the meeting.

Q. So is it a correct statement that you did

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not show any documents to Miss Washington, Mr. Tevis, Mr. McGlashan, or Mr. Hope during that meeting?

A. No.

Q. It was just an oral discussion.

A. Right.

Q. Did you or Mr. Hope explain the nature of the lawsuit to Miss Washington or Mr. Tevis or Mr. McGlashan at that meeting?

A. I did not explain the nature of the lawsuit because I am not an attorney. All I know is that we have been sued by BellSouth for -- the STS pertaining business there. All I did is tell them that that was taking place. I didn't go into any details with them.

Q. Did Mr. Hope go into any detail about the lawsuit, the allegations, or any of the issues in the case?

A. Not that I remember.

Q. It just occurred yesterday, right?

A. Excuse me?

Q. It just occurred yesterday, this meeting, right?

A. Yes, yes.

Q. Are you having a hard time remembering

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what happened yesterday?

A. No, no. As I said, I don't think so. I don't remember every word that was said, but he did not -- it did not pertain to any of the legal ramifications of this, of the content of the documents. It was strictly a technical meeting for me to clarify certain questions that I had, and that is what the meeting was about. It wasn't about legal issues.

Q. Other than the meeting we just talked about, did you have any other meetings prior about this lawsuit prior to your deposition today?

A. There was one more meeting a couple months ago, a brief meeting, but I can't remember even what we discussed. It wasn't very long. I have to think. Maurice was there and Mr. Hope. I don't really recall exactly what was discussed in the meeting.

Q. Let me show you what previously has been marked in this deposition as MJ-6, and ask you to review that document. Then I will ask you whether you recognize it or have seen it before. So take your time.

While you are looking at this, let me represent to you, to assist you, that these are

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responses to interrogatories that the County filed in this case. Interrogatories are essentially just questions that are asked. As you can see, as you go through that document, they are pretty lengthy statements in there.

My question to you, number one: Have you seen that document before?

A. No.

Q. Is it safe to -- let me ask you this: Were you consulted in any way, shape or form with respect to the statements that were put into this response, which was filed with the Court?

A. No, I was not. I don't know if somebody ever asked me a question that we were going to use the answer to put in this document, but I wasn't told that a document was being prepared. I don't know who prepared this or who --

Q. If you look at the end of the document, I think you will see that it is sworn to by Maurice Jenkins, who you are familiar with, correct?

A. Yes. He is my boss.

Q. And the question is: Did he ever show you this document to assure its accuracy prior to him swearing to its contents?

MR. HOPE: Objection to form.

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THE WITNESS: I don't recall seeing the document before.
Q. Thank you. Let me show you what has also been previously marked in this case as MJ-7. If you could take a second and look at that document. Essentially, I will ask you the same questions I did with MJ-6.
While you look at that, let me again help you out and represent to you that this is an affidavit that Mr. Jenkins signed that was filed in this case by the County. With that representation, let me ask you again, number one, have you ever see this document before?
A. I don't recall seeing it.
Q. Do you have any recollection of Mr. Jenkins consulting with you prior to him signing this to ask you to confirm the accuracy of any of the contents?
A. No, sir. I don't.
Q. Thank you. You can put that aside.
You were actually deposed in this case on May 21st of 2003. Do you recall that experience?
A. I believe so. That is the one that was over there in the Grove.
Q. I think it was. I wasn't there, correct?

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A. Well, I remember some of it.
Q. Since the time of that deposition, have you had an opportunity to review the transcript of your testimony? And first let me ask you, do you know what I mean by transcript?
A. Yes. The written account of what was said.
Q. Yes.
A. I don't recall.
Q. You don't recall whether you ever reviewed it?
A. That's right. I may have, but it has been several months. I read a lot of papers. To be honest, I don't have much time to read these things when they come. I have other things to do.
Q. We know you are pretty busy.
A. My workload doesn't allow me to spend a lot of time reading legal documents.
Q. Understood. I appreciate that and I respect that. I hope you appreciate I just need to ask the questions. If you don't recall or you haven't, that is fine too.
A. I am not saying I didn't see it. I might quickly just scan through it. But I don't recall having gone through a lot of detail through that

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document.
Q. Has anybody met with you or discussed with you what you said or didn't say in that deposition?
A. No, sir.
Q. So from the time that you gave that deposition to today, you have had no discussion with anybody at the County, including Mr. Hope, about what you said or didn't say in that deposition. Is that a true statement?
A. That is correct.
Q. Just a background question. Would you agree with me that the County provides telephone service to its customers at the Miami International Airport?
MR. HOPE: Objection to form.
THE WITNESS: We lease equipment and facilities to tenants of the airport and provide network connectivity within the airport, and the equipment that we lease the tenants allows them to connect to the BellSouth facilities, which connects to the public network.
THE COURT REPORTER: Can you speak louder, please? Thank you.
Q. MDAD has telecommunication customers at

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the airport, correct?
MR. HOPE: Objection to form.
THE WITNESS: We have tenants at the airport which we provide equipment and we lease them equipment and cable facilities and fiberoptics and network connectivity within the airport
Q. Are you disagreeing with the word "customer" that I am using? You keep replacing it with the word "tenant." Can you explain why you are doing that?
MR. HOPE: Objection to form.
THE WITNESS: Well, there are tenants that buy -- like I said, they enter into an agreement, and they pay for the lease of that equipment. That is what we do.
Q. Aren't they customers?
A. In the sense that they lease equipment, yes, they are customers for the leasing of equipment.
Q. Fair enough. Let's talk about those customers. Okay? I am going to give you three different scenarios. What I would like you to do is walk me through, from a technical perspective, since

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that is your background, what exactly occurs in each of these scenarios.

The first scenario is: A customer of MDAD picks up their phone out at the airport and wants to make a call to another MDAD customer at the airpor using a four-digit sequence. What I would like you to do for us is take us, from a technical perspective, and explain to us how that call occurs from the time the customer picks up the phone to the time the phone rings at the other customer's location at the airport. Can you do that for me?

A. Yes, sir. The tenant customer that uses our equipment at the airport will pick up the phone. They will receive an internal dial tone provided by the PBX owned by the aviation department at the airport, and that PBX will connect that call.

When they dial the four digits, that call will be connected to the other tenant customer that is also located at the airport and make the connection so they can talk to each other.

Q. Let me ask you some questions about that.

And again, you keep saying tenant customer now. I use customer, and you put tenant customer. Why --

A. In that case --

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Q. Let me just ask you this question: When was the first time you started discussing or using the word "tenant" prior to this deposition?

A. Well, the definition of STS is shared tenant services. So that is where I am getting it from. If you want to call it customers of equipment, we will call it customers, as long as we understand what we mean.

Q. Fair enough. When the customer picks up the phone at the airport, there is a dial tone, correct?

A. Yes.

Q. The customer hears a dial tone when they pick up the receiver.

A. Yes, sir.

Q. Where does that dial tone emanate from? Or better stated, where does that dial tone originate from?

MR. HOPE: Objection to form.

THE WITNESS: It originates from our PBX located in the airport.

Q. Now, you used the word "our PBX." What d you mean by our PBX?

A. The PBX owned by the aviation department. The PBX is a telephone switch, and it is located

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inside the airport premises. That is where the dial tone originates when you first pick up your phone at the airport.

Q. So the dial tone originates from a PBX switch that is owned by the County. Is that correct?

A. Yes, sir.

Q. And it is that PBX switch that is owned by the County that generates the dial tone; is that correct?

A. Yes, sir.

Q. So when that customer picks up the receiver and hears a dial tone, is it a correct statement that the County is providing that dial tone that that customer hears?

MR. HOPE: Objection to form.

THE WITNESS: He is providing the internal dial tone that the customer hears.

Q. So the County is providing dial tone to that customer.

A. The County --

MR. HOPE: Objection to form.

THE WITNESS: The County is providing internal dial tone to the

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customer.

Q. Now, what exactly does dial tone do?

A. I'm sorry?

Q. What exactly does dial tone do?

A. Dial tone tells the person with the receiver in his hand that the switch is ready to receive digits for a completion of a call.

Q. So without the involvement of BellSouth, without the involvement of any other telecommunication provider or company in this country, the County is providing a dial tone to its customers. Is that a fair statement?

MR. HOPE: Objection to form.

THE WITNESS: The County is providing internal dial tone for its customers located inside the airport facility.

Q. And without that dial tone, would you agree that MDAD customers couldn't utilize their phone?

MR. HOPE: Objection to form.

Q. At all.

A. That is correct.

Q. In other words, without that dial tone that the County provides, that phone would be dead

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correct?
MR. HOPE: Objection to form.
THE WITNESS: Without a dial tone any phone is dead.
Q. But in the circumstance I am asking you about, when that MDAD customer picks up his phon and if that MDAD dial tone is not there, that phone is dead, correct?
MR. HOPE: Objection to form.
THE WITNESS: Yes, sir.
Q. So that dial tone is on the phone when the MDAD customer picks up the receiver, and you said that customer would then dial a four-digit number, correct?
A. Yes.
Q. What happens exactly, from a technical perspective, when that customer dials that four-digit number?
A. The four digits which are basically tones on a different frequency, they go to the PBX which interprets those digits and makes a connection internally and looks for the other phone on the other side that corresponds to those four digits and makes the connection so they can talk to each other.
Q. Who owns the phone and the receiver that

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the customer picked up to listen to --
A. The County does.
Q. Now, when the person dials the four digits, and you said that goes to the PBX to get interpreted, how exactly do the four digits get to the PBX?
A. Through wires that are connected from the phone to the PBX.
Q. Who owns those wires?
A. The County does.
Q. So the County owns the phones, the County owns the wires, and the County owns the PBX, correct?
A. Yes.
Q. Are there any other pieces of equipment that are involved from the time the person dials the four-digit number to the time that four digits gets to the PBX, aside from the phone and the wire that you have referenced?
A. Well, if we will get really technical, the wires go through blocks. They are punched in the wires, and then they are cross-connected to another wire, and they follow a path until they actually get to the PBX. But it's basically all considered wiring facilities. So it is basically the terminal

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instrument, which is the phone, the wires, and all the interconnections to get to the PBX, and the actual PBX.
Q. Is there a technical name for the blocks that you mentioned?
A. No. They are called terminal blocks.
Q. And you mentioned, that is like a terminal system to get to the PBX.
A. Just wires.
Q. Just wires?
A. Distribution cables.
Q. Distribution cables. Does the County own all of that equipment that you just made reference to?
A. Yes.
Q. So then once the four digits gets to the County-owned PBX, how does that PBX interpret thos digits from a technical perspective?
A. It knows the frequencies of every one of the digits and knows what numbers they represent and associates that with the number that is being tried to be reached by the calling party and makes the connection.
Q. How many PBX's does the County own?
A. We have two major PBX's. Two at the

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airport.
Q. I am asking you because you have the technical background, but do all these wires feed into these two PBX's?
A. Yes.
Q. And do they go through -- do they connect into the PBX through what is called a port?
A. The port is the -- it is basically -- yes, the port is a hole that receives the wire to connect the phone to the PBX and all the internal equipment of the PBX.
Q. Is the port part of the PBX?
A. Yes. They are cards. The ports are cards in multiples of 16 each in a card, and they plug into the PBX which has common equipment, peripheral equipment, different kinds of equipment inside. It is part of the PBX.
Q. Once the PBX interprets the four-digit number, it then gets routed to whoever's number that is. Is that a fair statement?
A. Yes.
Q. And does the call, can we make reference to a call now that gets routed, does that call travel over -- go out of another port out of the PBX, over other wires, to the receiver's destination

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and phone?
A. Yes.
Q. And is all that equipment that is involved in that process owned by the County as well?
A. Yes.
Q. Then, in simplistic terms, does that phone ring?
A. Yes.
Q. And the person can answer if they are there, correct?
A. Yes.
Q. When that person answers it, it should be the voice of the originating caller, correct?
A. Yes.
Q. So that whole scenario occurs over County owned equipment, correct?
A. Yes.
Q. Who out at the airport can place calls using this four-digit dialing we just discussed?
A. I'm sorry. Who else?
Q. Who can?
A. The tenants that have basically entered into a contract with the County to lease equipment from us so they can complete these calls.
Q. So are the MDAD customers -- are MDAD

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customers the only individuals or entities that can use four-digit dialing at the airport?
A. By definition, yes. If you are not a customer, you wouldn't have a phone to call from.
Q. And is it only MDAD customers who can receive four-digit phone calls?
A. From our PBX?
Q. Yes.
A. Because they could be customers that have their own PBX's and they can dial four digits and talk to each other without going through our facilities. We are talking strictly the tenants that have signed an agreement with the County and use our equipment.
That is not -- it doesn't mean that all the tenants of the airport are under this contract or using our equipment. Just the ones that are under contract with us do this.
And I forgot what the question was.
Q. Is it only MDAD customers that can receive four-digit dialing using the County's PBX?
A. Okay. Using the County's PBX, yes.
Q. That is why I said it, to make it easier for you.
A. Yes.

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Q. To follow up, because you inserted this issue into the deposition, are there any other PBX's -- are there any other PBX's owned -- strike that.
Are there other PBX's at the airport that are not County owned?
A. I am not sure if there are PBX's, but there certainly are smaller telephone systems owned by other tenants there. Then of course we have American Airlines, who has a huge amount of service from BellSouth at the airport.
Q. And that is fair. But why is that relevant to the answer you just gave?
A. Well, they use a PBX also, except it is located -- I guess it is not located at the airport.
Q. Right.
A. It is located in their central office at BellSouth --
Q. That is not relevant to the answer right now.
MR. HOPE: Objection to right now.
THE WITNESS: I don't know what your relevancy is or not.
Q. Going back to any other PBX's at the airport, let me ask you again, is it fair to say

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that STS providers use PBX's? Are PBX's used by shared tenant service providers?
A. In general, yes.
Q. Are there any other STS providers at the airport, other than the County?
A. No.
Q. When you made reference -- I just want to be clear. You made reference to a possibility that there is some other tenant or resident or somebody who has a location at the airport that may have their own PBX. Is that -- do you know that to be a fact?
A. I know to be a fact that they may have a smaller telephone system because there is called -- something called an electronic key system, like small PBX's. It is a matter of how you call them. They are phone switches. There are other tenants that have their own switches that are not County owned.
Q. Now let me run you through scenario number two. Same MDAD customer at the airport picks up his phone. Instead of dialing a four-digit number to get to another MDAD customer, he or she wants to dial a number, let's say, in Kendall, in the Miami area outside of the airport.

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Can you explain from a technical perspective how that occurs?
A. Yes. When the person first picks up the receiver, it receives an internal dial tone from the PBX. Then he will proceed to dial a 9, which would give him an external dial tone that is received from the BellSouth central office through the switch, and that would allow the call to be completed through the BellSouth local facilities, which will provide the connection to the public network.
And the Southern Bell central office or the BellSouth central office will complete the call to the -- through their interoffice facilities to the appropriate Kendall center office, which will go to the phone that is the subscriber of that central office.
Q. So again, we start off on the beginning part of the process, a person picks up the phone. They still hear that County-owned dial tone that is being provided, correct?
MR. HOPE: Objection. Leading.
THE WITNESS: Internal dial tone, yes.
Q. And they dial a 9. What is the purpose of dialing a 9?

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A. Dialing a 9 is basically conveying the information to the PBX that this call is going to be connected through the external facilities or to the BellSouth facilities to connect to the public network. It is not an internal call, but it is an external call.
Q. Of course the 9 that is punched uses the County-owned dial tone when that 9 is hit, correct?
MR. HOPE: Objection to form.
THE WITNESS: The second dial tone that is received is received because BellSouth provides it from the central office. It would not be there if it would not be a dial tone provided by the central office, through the PBX.
Q. No dispute, and we will talk about BellSouth provides a dial tone as well. But the County-owned dial tone that the person hears when they pick up is what allows them to transmit their instruction when they hit 9 that they want to place a local call. Is that correct?
MR. HOPE: Objection to form.
THE WITNESS: I lost you there somewhere.
MR. GOLDBERG: Could you repeat the

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question.
(Thereupon, the requested portion of the record was re-read by the Court Reporter.)
THE WITNESS: I am not sure about the County owning the dial tone. It is provided by the phone that the -- by the telephone that the County owns, to the customer. The dial tone is provided by the equipment, and it is an indication that there is a connection ready to be established through the public network.
Q. Let's forget about the owned part, because that causes you trouble. Without the County-provided dial tone, an MDAD customer cannot hit 9 and have it be of any significance. Without the County-provided dial tone, nothing would happen, correct?
MR. HOPE: Objection to form.
THE WITNESS: We are talking about the first dial tone that allows you to dial 9?
Q. Yes.
A. Yes.
Q. Okay?
A. Yes.

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Q. So the County-provided dial tone for a person who wants to make a local call is significant, in fact absolutely needed, for the making of that local call because they need to hit 9, correct?
MR. HOPE: Objection to form.
THE WITNESS: Yes.
Q. Once that customer hits 9, are you saying -- are the dial tones then -- is the County-provided dial tone replaced?
A. The second dial tone is an indication of the PBX has interpreted an answer back from the BellSouth central office that indeed they are ready to receive digits. So it sends an indication to the telephone that you can dial now; we are ready to establish the communication.
Q. So you would agree with me, without the County-provided -- you would agree with me that the County-provided dial tone is part and parcel of the service that is needed to make a local call from the airport.
MR. HOPE: Objection to form.
Q. Correct?
A. The dial tone that is provided to the customer is part of the connection process to make a

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call.
Q. A local call?
A. Yes, yes.
MR. GOLDBERG: And just to be clear for the record, could you read back my last question, and I want him to hear it one more time.
Q. If you could answer yes or no, and then if you want to explain you can.
(Thereupon, the requested portion of the record was re-read by the Court Reporter.)
MR. HOPE: Still an objection to form.
THE WITNESS: The County-provided dial tone, are we still talking about the first dial tone?
Q. Yes.
A. Yes. The answer is yes.
Q. Now then, technically, the 9 -- does hitting the 9 transmit to the PBX, the County-owne PBX?
A. Yes.
Q. What technically happens when that instruction of 9 gets to the County-owned PBX?
A. It tells the PBX to get ready to establish

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a second path for that call. When you pick up the receiver, the PBX knows that you are trying to make an internal call. The 9 instructs the PBX to have a second function, which is an external call, ready to be established.
Q. How does a PBX accomplish that?
A. Well, the PBX are designed to interpret digits that are dialed in a certain way. They are programmed that way. Actually, it could be a 9. It could be an 8. It could be a 7. You program in what number you want it to mean to the PBX that yo want to make an external call. It reads that frequency, and then, you know, it is like a computer. I mean, it makes decisions inside how to basically control the switching mechanism.
Q. And all that is occurring on the County-owned PBX?
A. Yes.
Q. What happens next once it interprets that 9? Where does that call go? Over what equipment?
A. It makes contact with the -- at that point it makes contact with the BellSouth central office. They signal each other to make sure that we have a connection, give me your dates.
Q. Fair enough. Let me stop you there. What

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equipment -- how does that -- when you say they signal each other, what equipment is utilized to signal each other?
A. The PBX on our side, and the BellSouth central office on the other side.
Q. Are they connected somehow?
A. They are connected through the BellSouth facilities.
Q. How are they connected? What type of equipment connects them?
A. We have I believe ten -- what we call T1's, which is a digital hierarchy designation for a communication linkage that it has the capability for 24 channels each. So we basically have ten times 24, 250 connections or channels from the PBX's to the BellSouth central offices.
Q. Does the County own any T1's, of these T1's?
A. The T1's are owned by BellSouth.
Q. Does the County pay for the use of the T1's?
A. Yes. We pay BellSouth for the use of the T1's.
Q. We will get to that later. But the call goes over the T1's to the BellSouth office?

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A. To the BellSouth office.
Q. And then that call gets interpreted based on the ten-digit number that the person dialed after they hit 9? Is that correct?
A. Right. It is interpreted -- the ten digits is interpreted at the BellSouth central office switch, which is similar as a PBX, except bigger. It is routed through -- it knows how to get out of there, which other T1's to get out of there en route to the final destination, which is Kendall or whatever other central office it is.
It makes a decision internally to go in a certain path to that -- to the point-to-point, we call it. I used to work for BellSouth. A point-to-point location, from the airport central office to the Kendall central office. It knows to go out this way, out of the PBX to some T1 that connects it eventually to the central office.
Q. Now let me flip it around for you. Let's assume for purposes of my question that, you know, that the ice cream shop at the airport is an MDAD customer. There has been testimony about that. I just want you to assume that for now.
Let's say that somebody in Hialeah, outside the airport, wants to call that ice cream

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shop at the airport, who is an MDAD customer. How does that call -- how is that call made from a technical perspective?
MR. HOPE: Objection to form.
THE WITNESS: The customer -- the person in Hialeah picks up their phone and dials ten digits. The ten digits go through the BellSouth central office, the Hialeah central office, and that central office, sends those digits -- knows that because of the digits that the call needs to go to the airport central office, and when it gets there the central office basically strips the first four digits, and then sends the four digits to the PBX, which is called a DID, direct inward dialing digits. Then the PBX routes that call to whoever is supposed to receive the call.
Q. And when you say the PBX, that call goes from Hialeah, through BellSouth's equipment, into the airport PBX? Is that what you are referring to?
A. It comes from -- it goes through the airport central office of BellSouth, through those T1's that serve the airport, into the PBX, and from

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the PBX to the terminating phone that the call is going to.
Q. When you refer to the PBX, are you referring to the County-owned PBX?
A. To the County-owned PBX.
Q. And then through the County-owned equipment to the County customer?
A. To the County-owned equipment and wires to the County -- to the receiving customer who has a phone there.
Q. That, it seems to me, to be a local phone call.
A. It is a local phone call.
MR. HOPE: Objection to form.
Q. You agree that is a local phone call?
MR. HOPE: Objection to form.
Q. You agree it is a local phone call?
A. It is defined as a local phone call. There is no toll associated with it.
Q. What would happen if -- what would happen to that local phone call if you took away the County's PBX and the County's equipment and the County's phone at the ice cream shop? Would that local phone call be able to be completed?
A. No.

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Q. So without the County-owned equipment, the PBX, its wires, its phones, that customer would not have or not be able to receive a local phone call. Is that correct?
MR. HOPE: Objection to form.
THE WITNESS: Again, we are assuming that the receiving customer or tenant is a customer of MDAD for the purpose of providing equipment, telephones, etcetera.
Q. Correct, correct.
A. So without the County-owned equipment, the call cannot be completed.
Q. Also, would you agree that without the service that the County currently provides to its customers at the airport, that ice cream shop, that customer would not be able to make a local phone call?
MR. HOPE: Objection to form.
THE WITNESS: How do you define service?
Q. How do you define service?
MR. HOPE: Objection to form.
THE WITNESS: The service basically is composed of the rental equipment, the

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maintenance that we provide them 24/7, and, basically, that is to maintain the equipment and make sure we are there if a failure occurs, etcetera. So if that is what you mean by service, yes.
Q. Well, let's use your definition and expand upon it. You say that your customers -- and we will get to this in a little bit. Your customers are paying for the use of the County-owned PBX, are the not?
MR. HOPE: Objection to form.
THE WITNESS: Yes.
Q. Isn't the use of the County-owned PBX by the County customers a service that is provided by the County to its customers?
MR. HOPE: Objection to form.
THE WITNESS: It is a rental of equipment and the maintenance of that equipment.
Q. So without that -- well, isn't the rental of equipment and the maintenance of equipment and the use of equipment a service?
A. It could be considered a service, yes.
Q. And without that service, would the local -- would the ice cream shop be able to place a

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local call?
MR. HOPE: Objection to form.
THE WITNESS: We do have an ice cream shop as a customer. I don't know about that. But yes, whoever is the customer, he wouldn't be able to complete the call without the County-owned equipment.
Q. And without the County-owned service, correct? Or the County provided service?
MR. HOPE: Objection to form.
THE WITNESS: I am not sure if it applies to service. All they need is the equipment.
Q. Mr. Garcia, I mean, let's just see if we can agree with each other. The provision of the County-owned equipment to one of your customers the service that you provide, right?
A. If you define it that way, yes.
Q. So then without that service, then that customer will not be able to make a local phone call.
A. Correct.
Q. I show you what has been marked previously in this deposition as MJ-8. You are familiar with

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that document, correct?
A. Yes.
Q. Are you doing okay from a food perspective?
A. I am fine.
Q. Okay. If I could ask you to turn to schedule one of that document, which is on page 5. Since you are familiar with the document, I am not going to take you through all the terms and details, and so forth. I want you to focus on the middle of that page, which is paragraph 10. It is entitled "equipment and features." Do you see that?
A. Um-hum.
Q. And it then lists four particular items: Switch access, network access, system - terminal equipment, and then system - other. Do you see that?
A. Yes.
Q. Are these equipment and features that are made available to MDAD customers and for which the pay the County?
A. Yes.
Q. And when you spoke earlier in this deposition about, you know, customers that enter into agreements and lease equipment, were you

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referring in some way to these four items?
A. I was referring to this whole document and those four items.
Q. Okay. What I would like to do over the next few minutes is just take you through these four items from a technical perspective. Because as you recall, these are some of the issues that Mr. Jenkins was unable to fully answer in the last deposition. Okay?
A. Okay.
Q. Can you tell us what switch access means, as used in this document and as understood by you a the airport, please.
A. Switch access is the way we -- well, we define switch access as one of the ways to charge the users of a telephone system at the airport to be the actual port where the telephone connects to the PBX, and also the features that the PBX provides to the user of -- to the owner of the phone.
Features, meaning call waiting, call forwarding, call pick-up from somebody who has a phone, conferencing. All those features that PBX provides -- there are over a hundred. So in that charge the switch access is the port connection to the phone with the -- there is a phone, the wire,

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and then how it goes into the PBX. It's a port to access the PBX, and then the features that the PBX provides.
Q. So we will talk about the features in a second. You earlier testified in this deposition that another name for PBX is a switch.
A. A telephone switch.
Q. Is that still a fair statement?
A. That is an industry standard designation.
Q. So just for purposes of the judge or jury who may view this videotape at some point in time, would we be talking the same language if I were to interchange the word switch here with PBX, if you were to call it PBX access -- it says switch access -- or is there a difference there?
A. No, it is not a good designation. Switch access is just two words that were picked to identify the scope of the charge that would be -- you know, separating the charge by zones, so to speak, and the switch access is basically the port and the features. It is just a name in this case. I don't feel comfortable relating it to the telephone switch.
Q. Fair enough. That is why I asked the question.

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A. It doesn't really switch with anything. It is just a name that was picked. I guess it accesses a switch. There is a switch access. It allows the phone to access the switch through the port. That is what the name is.
Q. But isn't the switch that you just used in your last statement the PBX?
A. Yes.
Q. That is why I was saying isn't it really PBX access? Access to the PBX?
A. Yes. You can say that.
Q. So it's a charge that encompasses your customers' access to the PBX, and everything that occurs in our prior scenario from the time they pick up the phone to the time that call or their instruction gets to the PBX? Is that fair?
A. It is, but it also includes -- it is not only access to the PBX, but the features that the PBX provides.
Q. And those features include what?
A. Everything from call waiting, call conferencing, call pick-up. When you have a group of phones, you can push a button and pick it up. Call parking, you can park your call when somebod is busy and send it later when they get off the

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phone, intercom. There is a myriad of features that the PBX provides that are included in that charge.
Q. Number 2, network access. What is network access?
A. Network access is the second part of the charge that actually allows the user of the phone to access the public network to the BellSouth facilities. In other words, the trunks -- the trunk is the connection from the PBX to the BellSouth central office.
The part of the trunk, when the trunk connects into the PBX through another port, it provides the charge to access that trunk connection that brings them to the BellSouth central office.
Q. Let me see if I understand. I apologize if I don't. The switch access covers from the time the user picks up his or her telephone to the PBX and all of its features.
A. Right.
Q. Would network access then cover your charge for the use of the outgoing port, perhaps, maybe not, and the T1's that you previously referenced?
A. It is a combination of the hardware that is needed to -- to the outside port, that is

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hardware, and connection to the BellSouth T1.
Q. And what is that outside hardware that you just referenced?
A. It is another port. It is a card with -- like with holes that you connect to a port, and that provides access to the outside world.
Q. Who owns that card that provides access to the outside world?
A. The County does.
Q. So the use of that card is part of network access.
A. Yes. What's charged for, yes.
Q. And then the call -- how far does network access go, the charge for network access take that call to the outside world, if you understand my question?
A. It takes it to the demarcation where the BellSouth facilities, which actually -- it's basically where the T1 terminates. From that poin on, it can go to anywhere in the world.
Q. And the County is paying BellSouth for the use of those T1's, correct?
A. Yes.
Q. So is it fair to say the network access charge that we will talk about more is charged to

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cover that cost, correct?
A. Yes.
MR. HOPE: Objection to form.
Q. What is number three, system - terminal equipment? Strike that. Let me go back just to make sure.
Is there anything else that is included in your definition or the County's use of network access in this agreement, other than what we have spoken about?
A. No. It is basically the connection, what it takes to make the connection from the PBX to th BellSouth facility. The hardware and whatever -- there are wires also involved in this. You have to take it from the PBX inside the telephone room to the BellSouth equipment. So there is some wiring involved in there.
Q. Who owns that wiring?
A. To the demarcation point, it is our wire.
Q. So that is included in network access as well?
A. All the cost of the hardware is all included in there.
Q. Number three, can you tell me what system - terminal equipment is, please, as used on page 5

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of MJ-8?
A. In simple terms, that is the telephone.
Q. The telephone with the receiver?
A. That is it. That is the terminal equipment, the telephone.
Q. Terminal, as it is used there, means like the end of the line or --
A. Terminal equipment -- right. When you have like a big network starting with all the BellSouth CO's and our PBX, the end of that is the telephone. That is the terminal -- that is what is called the terminal equipment.
Q. Anything else other than the telephone and receiver that goes into system - terminal equipment
A. Well, terminal equipment could be a fax machine. It could be a modem. It could be -- usually, those are the three things that are terminal equipment.
Q. Computers?
A. No, not in this case. The computers are not provided off the PBX. They are provided off th internal network, which is a totally different path and type of equipment.
Q. Speaker phones?
A. Yeah, speaker phones, conference phones.

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Any voice-related terminal equipment.
Q. Number four: System - other. What is meant and understood by the County when it uses th phrase, as contained on page 5 of MJ-8?
A. I think in this one here, everything else is bulked in this number four.
Q. So then let me ask you through your experience and your knowledge, what else is bulked into number four?
A. Well, it could be the lease of the actual wires themselves. We provide a lease for the cables and the fiberoptics. Sometimes it's just point-to-point fiberoptics, not connected to -- connected to things that they use that determines what it is. We just provide the (unintelligible) inside. This is all inside the airport grounds or within the airport terminal building. And then --
THE COURT REPORTER: I'm sorry. You said "we just provide the" --
THE WITNESS: The fiberoptics, for the customer to connect maybe perhaps two of their locations inside the airport. It is all done on a lease basis. We maintain the fiberoptics if something happens or to the cables, maybe.

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Q. Anything else that would go in system - other in your experience and knowledge working ou there at the airport for all these years?
MR. HOPE: Objection to form.
THE WITNESS: Well, as I said, mostly, it is the cable facilities by the airport. I am not sure. They could -- there could be some miscellaneous things. I can't even think of it at this time.
Q. Well, let me ask you -- let's go back to what you have testified to, the use of wires, cables, fiberoptics.
When you refer to wires, cables, fiberoptics, are you referring to wires, cables or fiberoptics that you haven't before referenced in this deposition about the -- you know, we mention wiring that goes from the phone to the County-owne PBX, and then wiring that would go from the PBX t the second destination? Are these different wires or cables that you are referring to now?
MR. HOPE: Objection to form.
THE WITNESS: They could be. In some cases they are; in some other cases, like I said, we provide, sometimes lease, fiberoptics or cable.

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A customer has an office in one part of the airport and wants to have a connection of any type. It could be a network computer connection, whatever, to another office located at the airport, and we lease them the cables to connect those two locations.
Q. Do you actually do that, in fact, at the airport?
A. Yes.
Q. And in those occasions, do those cables or wires go through the PBX, the County-owned PBX, don't go through the County-owned PBX?
A. What I described, no, they don't go through the PBX.
Q. So essentially, they would go from one customer location to the same customer's second location?
A. It is what we call dark fiber, which means it is not lit or exercised electronically in any way. The customer would do that using their own equipment.
Q. Can voice travel over those particular wires or cables that go from one customer's location to another customer location that doesn't go through

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the County-owned PBX?
A. If the customer connects voice equipment, it would. We wouldn't even know that because we don't care where they connect with.
Q. But it can, correct?
A. It could.
Q. Are you aware of any circumstances out at the airport where customers have done that?
A. Not specifically, no.
Q. But that wiring that you provide that would fall under number four, system - other, has the capability of carrying two-way communications, two-way voice communications, correct?
A. Yes. Inside the airport, yes.
Q. And they are charging for that wiring.
A. They charge by the foot for, again, the leasing of the facilities and their maintenance.
Q. And you would charge any customer who asked for that type of service or that type of wiring, right?
A. Yes.
Q. Are there any other services that are provided to MDAD's customers by the County that are not encompassed within paragraph 10 of schedule one in the one through four items we have just

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discussed?
A. Well, we provide several other services that are basically what we call CUTE, common use terminal equipment, C-U-T-E. And this is a system that allows the airlines to sign on to their host computer for reservations and flight assignment purposes using terminals that are common to any airline, for example. Any airline can sign on and they can access their host computer with this County-owned equipment. We provide that.
We actually are starting now to provide cable television service to whoever wants it, the program. Basically, it is provided by CNN, but it is basically cable television and the CUTE, and the -- we provide network connectivity also.
We have a big network inside the airport that it's -- it has a multifunction of a security to provide the transmission of security cameras to recorders for the security of the airport. Also, it connects the PC's that the staff uses, the County staff, to do their business every day. And we also sell that service. That network carries the CUTE system that we said.
All the -- eventually, we carry all the information for the flight display monitors that we

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have at the airport to show the flight information, the public address system, and so forth.
And as far as the customers, we provide all the tenants and the USPS customers, we provide them connectivity using this network for the data for their computers or any other application they may have, network services that we provide to them.
Q. Is that included or not included in the airport rental agreement as we see it on MJ-8 --
A. Yes, it would be probably under other.
I don't get involved directly in this part of the deal with the billing. That is done by the NextiraOne folks. They handle our telecom business Basically, we do provide that service and we do billing for it. We use the same contract.
Q. What do you understand the word "trunk" to mean?
A. Trunk?
Q. Yes. In your business, in your field.
A. Trunk is a connection between two switches. That is the pure definition.
Q. Would it also be a connection between two PBX's?
A. Yes. Well, PBX is a switch. So between two PBX's is a trunk. Between the central office

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and the PBX is a trunk. Because the CO is also a switch.
THE COURT REPORTER: Because what?
THE WITNESS: The central office is CO. The central office is also a switch.
So any connection between the central office and -- well, between two PBX's is actually a tie line. Let me rephrase that. Between the central office and a PBX is a trunk. Trunk is access from the PBX to the switch network, the public switch network.
Q. Does the County own any trunks, using your definition?
A. No. The trunks are owned by BellSouth, AT&T and MCI. Those are the three carriers that we use, and Sun Com, which are also BellSouth trunks. And actually, MCI also is BellSouth trunks. MCI, etcetera. They are basically owned by BellSouth. We don't own trunks.
Q. How does -- strike that.
Are all the MDAD customers -- do all the MDAD customers from a two-way telecommunication framework wind up at the County-owned PBX switch at some point?

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MR. HOPE: Objection to form.
Q. Do you understand my question?
A. We are talking about the voice customers?
Q. Yes.
A. Do they all end up at the PBX?
Q. Yes.
Let me help you. Setting aside your other scenario of one customer going from one customer location to a second location.
A. Not counting that?
Q. Not counting that.
A. Yes, they end up at the PBX.
Q. Does each MDAD customer have a separate entry point into the PBX switch?
A. Meaning a telephone?
Q. Meaning, I am sorry --
A. Do you mean by entry point a telephone or port?
Q. On the PBX side. A port.
A. Yes. Every phone is connected to a separate port.
Q. Are the ports grouped by customer in any way?
A. I don't believe so.
Q. Is there any grouping of either wires or

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ports or any other type of equipment by customer at the airport?
A. There is only one -- there is a hotel at the airport. And the trunks for that hotel, they are partitioned in the PBX to be separate. In other words, they have their own trunk groups. They actually get the service from AT&T instead of BellSouth, and they cannot call -- they cannot dial four digits and call anybody else at the airport.
Q. I have to ask you a number of questions about that to see if I understand it all. Okay? Let me just start from the beginning. What hotel are you referring to?
A. The Miami International Airport Hotel, which is located inside the airport.
Q. And the Miami International Airport Hotel is an MDAD customer?
A. The Miami International Hotel is owned by the County, and is operated by a management company.
Q. Is it serviced by MDAD?
A. We provide them the telephone service with partition trunks, and they own the instruments in the rooms.
Q. You say you provide the telephone service with partition trunks. First let me ask you, you

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mentioned that the County owns two PBX's.
A. Yes.
Q. Is there one PBX for the airport and another PBX for everybody else?
A. No. They are interlaced for disaster recovery purposes, so we don't lose one and everybody else is out of service.
Q. Does the County own two PBX's just because of size and volume?
A. Size and redundancy.
Q. What is redundancy?
A. You know, like if one fails, you have another.
Q. But if MDAD had a smaller operation, is it fair to say they could just use one?
MR. HOPE: Objection to form.
Q. One PBX?
A. Probably not. We would probably still remain like this because we like to have redundancy.
Q. Now, the Miami Hotel, how is that -- you say -- when you use the word partition trunks, what exactly do you mean from a technical perspective as it relates to that hotel?
A. It means two things. It means that everybody else that is getting telephone

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connectivity through our PBX, when they go out to the world, to a local call, to the rest -- to the public network, they go into these ten T1's that I explained before that Southern Bell provides, or BellSouth. I am showing my age here.
So the hotel is -- their calls go out through a separate trunk group that also terminates in the PBX, which was contracted by them separately and they are provided by AT&T. That is with their local calls, and their long-distance calls go out through those separate trunks.
Also, what it means, partition, is they cannot dial four digits and talk to any of the other customers connected to the MDAD-owned PBX, the County-owned PBX.
Q. In that type of situation where you say those trunks have been partitioned, it only relates to the Miami International Airport Hotel that you spoke about. Is that correct?
A. Yes, yes.
Q. For every other MDAD customer, is there any partitioning of the trunks in any manner, shape or form?
A. No.
Q. When were the trunks partitioned for the

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Miami International Airport Hotel?
A. They have been like that for years. I don't remember when it was. It was before my time.
Q. You have been there for quite sometime.
A. Just four years.
Q. So definitely at least four years ago.
A. Before that, yes.
Q. Prior to -- I have to just ask you for record purposes. That would be prior to January of 2002. Would you agree with that?
A. Oh, definitely.
Q. Have you been involved in the last four years since you came to the airport in your position in any discussion whatsoever concerning whether or not to partition the trunks relating to all other MDAD customers, except for the Miami Internationa Airport Hotel?
A. It's been discussed from the technical point of view. Yes, it has been discussed.
Q. On how many occasions do you recall over the last four years having those discussions?
A. Just once or twice.
Q. When is the first discussion that you recall? When did that occur?
A. Probably about three years ago.

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Q. Who was involved in that discussion?
A. It was basically -- I can't remember exactly, but it had to be the folks from the NextiraOne, the telephone folks that basically maintain our PBX's. I can't recall exactly what, but I know we probably discussed it. But I can't recall who was there or what we discussed.
Q. Do you know what raised or caused the discussion concerning the partitioning of the trunks as it relates to all the other customers at the airport, and not the hotel?
MR. HOPE: Object to form.
THE WITNESS: In general, it was probably to make myself familiar with the way the whole operation of the PBX was and who got service from where and who was in one PBX and another and how everything was allocated in the PBX's, in the services. It was a technical discussion as to how, you know -- all the trunk groups that connect to the PBX, who get service, how they get service. It was that kind of discussion.
Q. What benefits are brought if you partition trunks?

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A. Brought to whom?
Q. To the County, to you. Let me rephrase the question.
If the County were to partition the trunks that go to all MDAD customers, except for the airport, what benefits would that bring the County, in your view?
A. I can't think of any benefits one way or the other, to be honest with you, whether partitioned or not partitioned at this time.
Q. Are you aware -- strike that.
Why are the trunks partitioned for the hotel?
A. They were partitioned at the beginning -- like I say, when I arrived there. I am not sure what the thought process was or why they were partitioned.
Q. Who would know, to the best of your knowledge, as to why those trunks relating to the hotel were partitioned?
A. I don't know who made that decision. It was done by the previous provider, which is basically Williams Communications, or the compan before NextiraOne that was handling the telecommunications services. They own all the PBX

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and all the wires and all the infrastructure at the time. So they -- somebody at that company made the decision.
Q. You mentioned two discussions that you recalled about partitioning. You told me about the first. When did the second occur?
A. It was done recently, a couple months ago, perhaps. We again went over the -- we discussed, again, all the connectivities and all the things. We were discussing the BellSouth trunks, MCI trunks all the different arrangements that we were having.
There was an issue with the billing, with the -- the way the calls are routed through the MCI versus the BellSouth trunks. And at the time that also came in as part of the discussion, as part of the overall discussion.
Q. Who was involved in that discussion a couple months ago?
A. This Ben Tevis, which I mentioned before. I can't remember. Maybe this Holly Klaty that also handles the STS.
Q. Was this lawsuit raised in any manner, shape or form in connection with your discussion about partitioning trunks?
A. I think we were discussing it, again, all

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the different trunking arrangements and all the different ways that we provide the services. I don't believe it has anything to do with the lawsuit, per se.

You know, again, I was trying to refresh my mind and going over some of these issues of the routing of the calls and things like that and who was serviced, how, and general technical discussions.

Q. Have you ever been involved in any discussion whatsoever concerning the possibility of partitioning the trunks at the airport to comply with either Florida Public Service Commission requirements and/or to address issues raised in this lawsuit?

MR. HOPE: Objection to form.

THE WITNESS: I might have asked the question to the -- from the Nextira folks as to -- since I have read about partitioning trunks and things like that, about, you know, what are we talking about if we were to partition trunks or there was a need to partition trunks, how hard would that be or what impact would it have. I mean, something to that

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effect.

Q. And in that discussion, it was generated, was it not, because of the issues raised in this lawsuit? You would agree with me on that, wouldn't you?

MR. HOPE: Objection to form.

A. Well, I must have read something in one of the papers that brought up that issue. I just wanted to see if, you know, that were to happen, what would have been the impact.

Q. You also have worked in this field for quite sometime, and you understand that partitioning of trunks is raised as an issue or factor in, you know, Florida Public Service Commission regulation that cover your business, correct?

A. Yes.

MR. HOPE: Objection to form.

Q. Doesn't the County want to comply with all laws that relate to the telecom industry and business here in Florida?

MR. HOPE: Objection to form.

THE WITNESS: The County wants to comply with all the laws and regulations.

Q. So are you saying that that had no bearing on your recent discussions on complying with the

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FPSC requirements; it had no bearing on your rece discussion? Is that what you are saying?

MR. HOPE: Objection to form.

THE WITNESS: I am saying I must have read something about the trunk partitioning, and because of that I wanted to know, if it came to that, what would be the impact of providing trunk partitioning.

Q. What were you advised when you made tha inquiry?

A. I was not advised by anybody and I did not advise anything. I just wanted to see what it would take.

Q. Maybe you misunderstood, and I apologize for the use of my word advise.

When you made that inquiry, what were you told?

A. What was I told?

Q. Yes.

A. Oh, they didn't know. They would have to find out. They couldn't tell me.

Q. They didn't know what would -- the people from Nextira didn't know what would be involved what would have to happen to partition the trunks?

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A. Oh, we know what needs to happen. They didn't know how many hours of work that would entail. Basically, I just wanted to see what kind of impact in terms of hours or cost, or whatever, and they had no idea at the time. That is what it was.

Q. Did you want to know how much it would cost?

A. I mean, I was curious. I didn't get an answer.

Q. But you asked that question, correct?

A. Yes.

Q. When do you expect to get an answer?

A. I don't -- I don't have a date to get an answer.

Q. Who is supposed to provide the answer to you?

A. Well, I think they might be looking into it. But I don't have a date to get an answer. They are going to get back to me or something.

Q. My last question was: Who is supposed to provide that answer to you?

A. I guess -- well, Ben Tevis is the supervisor for the voice area.

Q. Thank you. I appreciate that.

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A. Or telephone.
MR. GOLDBERG: It is like four minutes to one. If it is okay with you, given your prior request, why don't we take a little bit of a break so everyone gets something to eat.
THE VIDEOGRAPHER: We are off.
(Luncheon Recess in proceedings.)
THE VIDEOGRAPHER: Stand by. This is videotape number two of the continued deposition. The date is October 28, 2004.
Please continue.
MR. GOLDBERG: Thank you.
Q. (By Mr. Goldberg) Mr. Garcia, we have taken a lunch recess. Are you prepared to continue with your deposition?
A. Yes, I am.
Q. And just as I remind everybody, you are still under oath. Do you understand that?
A. Yes, sir.
Q. When we broke, we had been discussing trunks and partitioning trunks. There were two questions, at least two questions that I have about that to follow-up on, and I hope you can help me

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understand your testimony a bit better.
From what I recall in your testimony when we first began discussing this issue, I thought you had testified that the County did not own any trunks. Is that an accurate recollection that I have of your testimony?
A. Yes.
Q. But then subsequently in your testimony here today you began talking about, you know, possibly partitioning trunks. And my question is: How can you partition trunks or even discuss partitioning trunks that you don't own? Can you explain that to me?
A. Certainly.
Q. Thank you.
A. Okay. Like I said, when any of the tenants or customers that are served from the PBX that the County owns right now, when any one of those makes a phone call to the outside world, they all go through the same ten trunks that we have from BellSouth, with the exception of the hotel that has a separate trunk group.
What we mean by partitioning trunks, let's say we wanted to separate the aviation department employees from all the other tenants or customers o

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the airport. We would arrange the PBX in a way th all the calls -- first of all, we would establish another trunk group by another power trunk from BellSouth and tell the PBX, any time you get a call from any of its customers, route them through this new trunk group that we just purchased from BellSouth.
Q. Okay.
A. So we separate -- then we'll decrease the trunks that we have for MDAD because we have les traffic through them, and establish another separate group to make all the tenants go through that other trunk group. As a consequence of that, then you wouldn't be able to dial four digits between those two universes.
Q. So it is not a matter of ownership of the trunk groups. You can still partition trunks without, quote/unquote, owning them, correct?
A. Oh, yes. Yes.
Q. Because they relate to, correct me if I am wrong, the customers you are providing service to.
MR. HOPE: Objection to form.
THE WITNESS: I am not sure I understand the question.
Q. Well, you would partition trunks as it

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relates to the service you are providing certain types of customers.
MR. HOPE: Objection to form.
THE WITNESS: You can partition trunks based on any criteria you want. The whole partitioning refers to the way the call is routed from the PBX to the central office of BellSouth. You establish another separate path for that, but the criteria could be anything you want.
Q. What is the criteria that you are currently discussing regarding the possibility of partitioning trunks?
A. Well, I believe what I asked him to find out is what would be the -- what would it take to basically partition what I just said. The MDAD -- the aviation department's staff phone from anybod else. So that is basically -- I just wanted to see what is order -- what is the order of magnitude of the effort of whatever it would take to do that.
Q. Are you saying you are currently contemplating partitioning the MDAD's staff's own phones from everybody else, all other MDAD customers, including airlines, shops, the ice cream

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shop, and so forth?
MR. HOPE: Objection to form.
THE WITNESS: We are not really contemplating anything. This is a what-if scenario only. It could be anything.
Just to have something to work with, I said separate the MDAD -- what would it take to separate the Miami-Dade Aviation Department staff from anybody else, or from everybody else.
Q. You didn't ask them to figure out what it would cost to separate all the airlines' customers that you have from the non-airline customers, whic would include shops, restaurants, and the like?
A. No.
MR. HOPE: Objection to form.
THE WITNESS: No, I did not. And we do have other types of customers. There are a litany of those, which are government entities, like TSA, the FAA. You know, the FCC. Not the FCC. The U.S. Department of Agriculture, INS, customs services. All those folks also receive services. So that is like

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another group, if you want to call it that.
Q. So you didn't ask them to consider partitioning out any types of those customers?
MR. HOPE: Objection to form.
THE WITNESS: I didn't ask to -- I asked them what would it take to do that. To partition, yes. The answer is no.
Q. Is it your testimony today that you are not contemplating separating out airline customers from non-airlines customers?
MR. HOPE: Objection to form.
Q. Is that your testimony here today?
A. At this time we are not contemplating partitioning anything. I just want to see what it would take to do that.
Q. You also testified before we took the lunch recess that it was no benefit, in your view, to partitioning trunks. Yet, you are asking your people to look at a what-if scenario to partition trunks.
A. Um-hum.
Q. So my question is: If there is no benefit to partitioning trunks, why are you asking your people to look into it?

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MR. HOPE: Objection to form.
THE WITNESS: Well, to be perfectly candid here --
Q. Which you need to be, and I hope you have been.
A. We are discussing issues that pertain to STS provisioning, partitioning of trunks, and everything else. So in my mind, what was in my mind, asking for that study, so to speak, is to, you know, what if we get mandated by the court, for whatever reason, to do that. So I said, I want to know what it would take. That is all. That is all that was into that.
Q. Fair enough.
Let me show you what previously has been marked in this deposition as MJ-23.
A. Pictures.
Q. Pictures. Take a second to peruse that document, and then I will ask you some questions about it.
A. Ask away.
Q. Have you seen this document before?
A. Nope.
Q. My question --
A. I am familiar with the contents.

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Q. But you have not seen this document?
A. No.
Q. Is the picture, as you refer to it on the first page of MJ-23, does that depict in some way our earlier conversations during this deposition about the equipment and service provided by MDAD
A. This is not an accurate picture.
Q. Thank you for saying that. Tell me what is inaccurate about it.
A. This is an IPE, which means an intelligent peripheral equipment, on the right-hand corner there. What this is, is when you have like a main PBX, one location, and let's say you have another location that is very far away to provide -- that you want to provide telephone service to, instead of -- let's say you got 200 phones in one location that you want to provide. Instead of running 200 pairs of cables all the way to the other location, what you do is you install like a -- what you call a paragain or a switch like this, a mini switch, and you put a tie line between that switch and the main PBX, and then you run the phones off this peripheral equipment.
Q. Okay.
A. And the local CO lines, normally you

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wouldn't connect this to -- this implies connection to the central office, the way I see it.
Q. Are you saying it is more accurate that this piece of equipment would be between your line -- the PBX and the line going to the telephone. Just put it --
A. Our PBX would be here (Indicating).
Q. On the left side of the diagram?
A. Right. Instead of implying that it goes to the BellSouth central office, this would be tie lines, and there would be a PBX here. That is why it says peripheral equipment. It is like a satellite from the main PBX.
Q. Then with that revision, would not the boxes that are labeled network charge and port charge also be incorrect, given our prior discussion?
MR. HOPE: Objection to form.
THE WITNESS: Well, the port charge would be fine. That is the way it is. This thing has ports to connect to the phones. And we will probably charge the -- again, the charging structure is what it is. And there is no rule that establishes that charge.

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Basically, we are basically taking over the rules that were used by NextiraOne, we used to use that with them. When we bought their equipment, we didn't change the rules. We just kept the same rules.
So basically, I don't know exactly without looking at the other pages, but I am assuming they are using the same charging mechanism for these lines here, as to be the network charge.
Q. When you say the words network charge on the bottom, is that the same thing as network access?
A. Access, yes.
Q. But given your prior testimony about network access, network access is what you charge from going from the PBX switch back to the BellSouth and out to the world. Yet, this box, as you have revised the picture, is just before the PBX. There is never a charge before this.
A. Again, this is done just for the sake of charging, and not implying anything else. It is basically a mechanism in which you say, well, once it leaves here, eventually it ends up in the

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BellSouth central office. So the customer doesn't need to know the alternate path that it takes. It goes through the PBX and to the outside world. S for simplicity, we just take this as a charge to the customer.
Q. Overall, this is an inaccurate depiction, at it stands now.
A. This is the only part -- as I said, these lines would go to the PBX instead of to the central office lines, like it says here.
Q. I ask you to turn the page. Have you seen this page before today?
A. No. Not today or -- no, not this particular page.
Q. It says new pricing for MDAD STS customers, September 30, '02. That is shortly after, is it not, the transaction that took place between the County and Nextira when the County purchased Nextira's assets?
A. We purchased in January.
Q. Of '02?
A. Of '02.
Q. So it is nine months after, correct?
A. Yes.
Q. Does this document reflect pricing that

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went into effect as of September '02 for MDAD's customers?
MR. HOPE: Object to the form.
Q. For -- let me strike that.
Does this document reflect costs as it existed in September '02 for MDAD to purchase equipment, and what have you? You know, I will strike that.
Tell me what this document reflects.
A. This looks like the price that we charge the customers that uses this type of equipment.
Q. What's an IPE?
A. That is this whole box here, the intelligent peripheral equipment.
Q. And DLC?
A. I would imagine -- the problem is digital line charge, but I am not positive what that is. These all seem to be, like the super loop is an internal -- internal -- okay, let me see here. This seems to be a breakdown of the internal components of this box, and the way Nextira has broken the charge, somebody probably wants this whole box, bu doesn't use this whole box, so they have broken the charge into the components.
The IPE might be just the cabinet, the

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outside cabinet. And the DLC could be part of the internal components, and so is the common equipment. And the super loop is an internal component for sure.

Q. What does the reference to 256 lines mean?

A. Probably the total capacity that you can provide. You can hang 250 phones out of that switch -- 256.

Q. When you are talking about this piece of equipment, it says MDAD cost. Cost purchasing it from whom for MDAD?

A. Let me see here. This seems to be something that was generated to -- some kind of study that was generated to provide some customer for service that they required, or somebody requested a quotation. Because I can see 15 percent profit and things like that.

So this is basically an internal document generated by Nextira to the aviation department to explain the cost associated -- the cost to us, because we have to pay them for what they do, for the equipment. We purchase the equipment from them.

Q. And all of this equipment that is depicted on this document is integral, is it not, for an MDAD customer to make a local phone call, correct?

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MR. HOPE: Objection to form.

THE WITNESS: Well, it could be a local phone call or it could be an internal call.

Q. Let me rephrase the question. Would you agree all the equipment depicted on this document i integral and important and necessary for an MDAD customer to place either a local call to Miami or an internal four-digit call?

MR. HOPE: Objection to form.

THE WITNESS: As we defined it before, yes.

Q. Having said that, MDAD, the County, is contemplating by this document by its terms reapin a 15 percent profit on this equipment --

MR. HOPE: Objection to form.

Q. -- for that service, correct?

A. Well, I cannot give you a yes or no answer. I have to explain what that means and why it is there.

We don't have a separation of the actual cost to the County of providing STS services. We basically hire all the folks from Nextira, 50 of them, and to provide telecommunication services fc the aviation department, the airlines, and everybod

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else that uses the services.

We also use all the infrastructure of cables and wires and equipment and PBX's, and the like, and the whole provisioning of services inside for all the -- for everybody that uses that equipment is all intermingled.

So we really don't have a field that says we are making this business of STS costs us this much, and then we have this profit, and then the net revenue is so much. There is no such thing. We just basically do the best we can to cover all the costs of running this situation here.

This profit is a way to actually make sure that we cover that. Because if we don't know exactly what everything costs -- I mean, we can charge for the equipment. We can see how much the equipment costs. We see the maintenance, what it costs. But we don't really know what percentage of the staff that we have and the overtime that we pay and all the things actually costs the aviation department as compared to if we didn't have it.

THE COURT REPORTER: As compared to what? I'm sorry.

THE WITNESS: As compared to if we didn't have the STS versus having the

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STS.

Q. I have a smile on my face. I don't mean any disrespect. But for the record, I want to just understand what you are saying.

Are you saying that the 15 percent profit line on this document is just another -- is just a way that the County ensures that it covers its cost, but does not -- it is not designed to make a profit?

MR. HOPE: Objection to form.

Q. Is that your testimony?

A. It is to make sure that we cover our costs, because we don't really know what our STS costs are. We know what the gross revenue is that we get, and we know what we pay NextiraOne for everything they do. But we don't know -- but we have not allocated the cost of STS versus non-STS, in even equipment, salaries, or any costs.

Q. As it relates to this particular equipment, which you have already testified to is part of providing, you know, the local service for either a local call or an internal call, this document reflects that the County is factoring in a 15 percent profit margin. Yes or no?

MR. HOPE: Objection to form.

THE WITNESS: Yes.

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Q. I am sorry?
A. Yes, we are adding 15 percent to the cost.
Q. So there is no question that the County desires to make a profit off the provision of this equipment to its customers, correct?
MR. HOPE: Objection to form.
THE WITNESS: The County desires not to lose money on the overall provisioning of the service.
Q. Stated another way, the County desires to make money. Yes or no?
MR. HOPE: Objection to form.
THE WITNESS: No. The County desires not to lose money. We don't aim to make a profit. We just want to make sure we don't lose money.
Q. So is it your testimony here today you put this 15 percent profit in this document just to make sure you don't lose money, but you don't care abou making money. Is that what you want to tell the jury and the judge in this case?
A. Yes, that is what I am telling the judge, the jury, and everybody else that wants to listen.
MR. HOPE: Object to form.
Q. Are there any documents, policies,

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procedures, anything that you are aware of at the County or at the airport that would support your prior statement that the goal here for MDAD is not to lose money? It is not to make money, but not to lose money?
MR. HOPE: Objection to form.
THE WITNESS: No, we don't have any documents that support that. What we don't have is a separation of STS versus everybody else, showing STS as a separate business with profit and loss and net revenues, and what have you.
Q. Is there any type of reconciliation that occurs at MDAD once you determine that your cost have been covered to return any excess money to th customer since it may have paid too much?
A. We don't have reconciliation because we don't know when our costs have been covered. We basically have a lot of costs. We pay Nextira half a million dollars a month just for their personnel, in addition to all that we pay for the equipment, and so forth. Just a flat fee. We pay them half a million dollars a month, plus all the other overtime and when they have to respond to a maintenance trouble in the middle of the night, or whatever. So

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it's -- we don't have such a thing.
MR. HOPE: Objection to form.
Q. So you are saying MDAD doesn't have the capability of telling the judge in this case whether you are losing money or not losing money on the ST services it offers at any point in time?
MR. HOPE: Objection to form.
THE WITNESS: As far as I know, we don't have that determination at this time.
I want to point out that I am not the business person here. I am the technical person.
Q. Understood. If you look at this document, it looks like somebody has gone -- do you know who wrote this document?
A. I would imagine it was done by somebody in Nextira.
Q. Well, it looks like somebody has gone to a great length to itemize the costs for providing this service.
A. Um-hum.
Q. Also including a profit margin for providing this service. So does it make sense to you to go through all this effort to itemize cost

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and place in a profit margin, but not to know or be able to determine at the end of the day whether or not you are losing or making money?
MR. HOPE: Objection to form.
THE WITNESS: Well, this was done -- because don't forget, we pay Nextira for what they do. So if they will sell us a piece of equipment, they need to justify to the County what is it that we are buying, and justify the expense.
Because the other side of this, of course, is that they will be -- let me see this for a minute here. Okay. I guess individually, this is a proposal for a piece of equipment, and it is trying to show that it is just taken as an individual case. This particular transaction would be a positive cash flow, if you want to say, to the County, versus a negative cash flow.
The reason, I guess, is because even though overall we don't know what is going on, but we certainly don't want to do more incremental businesses knowing that at least we are not going to lose

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money in the future business that we do.
Q. I would like to ask you to turn two more pages on this document to what is called a network access cost at the top of the page.
A. Okay.
Q. If you look down under MDAD cost, do yo know what one network shelf is?
A. Where is it?
Q. One network shelf.
A. Oh, that is when you have the PBX, it is like a cabinet, and in the cabinet you have shelves, and in the shelf you have cards which contain those ports that we discussed. So the shelf is basically a shelf where you plug in additional cards. It allows you to plug the individual cards.
Q. If you go down the page, there is an item called local line cost. Can you tell me what that is? Cost for local line. Local line cost.
A. This probably refers to the cost of -- this would be the additional cost that we would pay BellSouth for connecting this to the public network
Q. For completing your customer's local call. Is that fair to say?
A. Yes.
MR. HOPE: Objection to form.

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MR. GOLDBERG: Did you get his answer?
THE WITNESS: Yes.
Q. For utilizing those local lines, if you look at the next line down this document, is it no the case that the County is figuring in, again, a 15 percent profit on the use of those local lines t complete a local call --
MR. HOPE: Objection.
Q. -- for your customers?
MR. HOPE: Objection to form.
THE WITNESS: That is what it looks like.
Q. And you are not aware of any information that would dispute that, correct?
A. No.
Q. And as we continue down this document, there is a total of five-year cost of 191,667. That takes into account both the local line cost as well as this 15 percent profit margin, correct?
A. It looks that way.
Q. What you wind up is the next line, a voice line charge per month of 15.66. Can you tell me what that item represents.
A. Well, I don't have a calculator. If I had

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to guess, it would be a division between that and the number of lines, which is estimated here as 204 lines and 60 months. If you divide that by -- I guess 191,000 by, roughly, 1,200, you come out wit S15.
Q. Fair enough. So that the voice line charge per month takes into account a 15 percent profit, correct?
MR. HOPE: Objection to form.
THE WITNESS: Yes. Normally, the customer would sign a five-year contract.
Q. And that's why --
A. 60 months.
Q. And that's why this is a total of a five-year cost, to break down for a voice line charge over that five years?
A. Right.
Q. Let me show you what has been marked as MJ-24 previously in this deposition.
A. Okay.
Q. I venture to guess that you are familiar with this document.
A. Yes, sir.
Q. You have seen this type of document before.

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A. Yes.
Q. Can you just explain for the record what this document is, please.
A. This is a sample of a typical -- a sample pricing of the basic components of voice equipment. That is basically what it is. And it is broken out between the four components that we saw previously in the contract between switch access, network access, system, and system - other.
Q. System - other, which was number four on the rental agreement, correct?
A. Yes.
Q. Let me just bring you down to where it says network access, number two. In the first line there is single line local network access. Monthly unit rental, $18. Can you explain to me what that charge is for, specifically.
A. Okay. That is the charge that was assessed for the -- we are on the network side of the PBX now, not the side where the phone is connected. We are on the side that is connected to the outside world. That single line network access is the charge that would be assessed for the connection to the outside world, if they want that kind of connection.

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I have to point out, however, that is not used any more. We have dropped -- no, we have not dropped it for everything. We only kept it there for a connection of modems. Like a one connection only. Like anybody that has a fax machine. What w normally -- well, I will let you ask a question. It is the connection to the outside world to the BellSouth lines from the PBX.

Q. Why is it not used any more?

A. Well, it used to be like let's say you want to connect 25 phones. They used to be charged 25 times 18. Now we modify that charge and we are accessing the network access, which is $49 shown or the third line on a ratio of five to one. In other words, when you connect a phone, you buy five connections, and for $49 you can connect five phones.

Q. If you want ten phones, it is going to be $98?

A. $98.

Q. So you just subsumed the charge that was formerly single line local network access into the third line down, network access?

A. Right. We kept the first one just for anybody that has one connection. If you want -- if

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you have a number of telephones, then you go to th 49, for five.

Q. Why was that change made?

A. It was felt that it probably was too expensive. We couldn't explain to the customers. It was kind of high. It was a marketing decision. Actually, I wasn't part of that decision. I was informed by the folks that run the marketing department of Nextira that it was done to have a better price structure.

Q. Couldn't you explain it to your customers that this is just to make sure that we are covering our costs?

MR. HOPE: Objection to form.

THE WITNESS: No, because they have other choices. I mean, we could charge a thousand dollars for the phone, but that wouldn't be too good for us.

Q. Because why?

A. We wouldn't cover anything because nobod would buy it.

Q. Where are they going to go?

A. They could go to BellSouth, they could go to anybody else. To AT&T, Sprint. You name it.

Q. So to change your pricing structure is to

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be able to better compete with BellSouth and other entities?

MR. HOPE: Objection to form.

THE WITNESS: To have a better price structure, to make it more attractive to the buyers of the service.

Q. So they would choose MDAD, the County, over another competing entity, correct?

MR. HOPE: Objection to form.

THE WITNESS: We don't compete with other entities. Not BellSouth. That is for sure. We can't compete because we don't have access to the public network.

Q. Give me all the reasons, every single reason, in fact, that supports the statement you just made that you don't compete with BellSouth.

A. Well, there are a couple of reasons. We couldn't compete with BellSouth because we don't provide access -- I mean, we don't own facilities to access to the public network. We have to depend on BellSouth to provide us those facilities so we can connect the phones -- I mean, the users to the public network.

Number two: We don't just provide the services of what BellSouth provides. We provide a

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bundle of services that includes other things besides voice, like network connectivity, dark fiber and copper, and the common use terminal equipment that we described before, and so forth, cable TV. So we provide a bundle of services other than what BellSouth provides. Also, the benefits of the passengers of the airport.

In addition to that, we provide a totally different service level to the users, which is an enhanced service that BellSouth doesn't provide; 24/7. You know, within two hours of reporting a trouble with dispatch, things like that.

So it is not even a similar service that BellSouth provides. So because of that we are not considering ourselves in competition with BellSouth.

Q. Any other facts, reasons, whatsoever that you can think of other than the three you just listed, that would support your statement?

A. Well, those are the three major ones.

Q. Let's talk about each of the three. The last one first; you say that you have a 24/7 service capability.

A. Yes.

Q. And you say BellSouth doesn't.

A. As far as I know, they don't.

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Q. Why is that not just a marketing strategy for you in order, quite frankly, to allow you to compete and maybe perhaps better compete with BellSouth because you're positioning yourself as having better service than BellSouth?
MR. HOPE: Objection to form.
THE WITNESS: Well, we try to provide service because the airport is a critical facility and we are obligated to provide better -- a level of service that the customers demand, and that is what it is geared for. It has nothing to do with comparing ourselves with other vendors.
We don't really care what the other vendors do. We just do what the airport tenants demand from us based on the nature of the business, which is running an airline and keeping the airport going.
Q. So you provide service on your phones an your equipment to your customers, correct?
A. As described before, yes.
Q. BellSouth provides service to its customers on its equipment at the airport, correct?
A. Yes.
Q. So the only distinction you are drawing

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here today is you are saying that the airport provides what you believe is better service because they have 24/7 -- because you have 24/7 service capability and you say BellSouth doesn't. Isn't that the only thing you are saying here today?
MR. HOPE: Objection to form.
THE WITNESS: Well, we provide a different service than what BellSouth or maybe some of the other carriers do because that is what is needed at the airport.
Q. You provide a different service. You provide 24/7 service, where BellSouth doesn't.
A. That is right.
Q. So that is what that third reason boils down to; that you provide 24/7 service, and BellSouth, you say, does not.
MR. HOPE: Objection to form.
THE WITNESS: The third reason is stating that we don't provide a similar service because our service is different than BellSouth, both in the nature and in the -- what we provide and in the services that we provide for maintenance.
Q. Now, when we talk about service, this

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service, we are talking about repair and maintenanc service, correct?
A. Yes.
Q. The County provides repair and maintenanc service. That is a fact, right? Yes or no?
A. Yes.
Q. BellSouth provides repair and maintenance service. That is a fact, correct? Yes or no?
A. Yes.
Q. So right at that point wouldn't you agree, and have to agree since you are under oath today, that the County is providing the same service as BellSouth in terms of repair and maintenance?
MR. HOPE: Objection to form.
THE WITNESS: I don't think a two-hour response is the same as providing a 24-hour/48-hour response.
Q. Having said that, aren't you just making a distinction not between the service that is provided, the core service that is provided, but rather the quality of that service that is provided? Isn't that exactly what you're testifying to?
MR. HOPE: Objection to form.
THE WITNESS: Right. That we both provide maintenance service. Ours is

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different than BellSouth.
Q. So you would agree with me that you are providing the same service as BellSouth, that being repair and maintenance. Your distinction, however is that you believe the County provides a better quality of service than BellSouth. Is that a fair statement?
MR. HOPE: Objection to form.
THE WITNESS: Yes.
Q. Now, the first reason -- and I will get to the second reason in a second -- you gave for your conclusion that the County does not compete with BellSouth is, is that the County doesn't own the facilities to access the public network. Is that a fair statement of your first reason?
A. Yes.
Q. Now, you own telecommunication facilities and equipment at the County, correct?
A. Yes.
Q. Okay. And you would agree that without BellSouth's equipment and facilities, one, an individual at the airport cannot complete a local phone call or have telephone service, correct, to Miami, outside the airport?
A. Right.

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Q. And wouldn't you also agree, given your prior testimony today under oath, that without the facilities and equipment that you own a customer at the airport would not be able to complete a local call outside the airport.
A. Correct.
Q. Okay. So wouldn't you agree that the service you are providing is similar to the service BellSouth is providing because without each other a customer at the airport will not be able to complete a local phone call outside the airport.
MR. HOPE: Objection to form.
THE WITNESS: Well again, the similarity is not there because we no longer -- BellSouth only provides telephone service, local service. We provide a lot more services than that. And also, we cannot do it without the assistance of BellSouth. BellSouth doesn't need Dade County to provide telephone service to customers at the airport. So I don't see any similarity there.
Q. Well, you are saying that BellSouth -- the County offers more services than BellSouth. Is that

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in part what you are saying?
A. Yes.
Q. But we would agree that one service that is being offered by both is local telephone service.
MR. HOPE: Objection to form.
Q. One of the County services that competes with BellSouth is local telephone service, correct?
MR. HOPE: Objection to form.
THE WITNESS: It's the ability to make a local call, yes.
Q. So if I understand you correctly, you would agree that the County is competing with BellSouth for that service; yet, your position, as you have stated it here today, is that there are other services the County provides that BellSouth doesn't provide and, therefore, there is no competition.
MR. HOPE: Objection to form.
Q. Is that a fair statement of your testimony?
A. I don't believe that we are competing because I don't see how we can possibly compete when without BellSouth we wouldn't be able to do the calls. So how can we be a competitor if we need our competitor to do our business? That makes no sense

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to me. Without BellSouth, we cannot complete any calls. So how can we be competing with BellSouth when we need them to do these calls completion?
Q. And you don't believe -- do you believe BellSouth is competing with you to get customers at the airport?
A. BellSouth can have customers at the airport without using anything at all that belongs to the County. They don't need us for anything. They can do their business on their own, but we can't.
Q. But you can compete with them because you have now purchased your own equipment to provide service to your customers, correct?
MR. HOPE: Objection to form.
THE WITNESS: No. We basically lease equipment. That is all we do. We lease equipment to allow the customers to access the BellSouth lines. That is what our business is.
Q. The County owns the equipment, correct?
A. Yes.
Q. You are talking about when you lease the equipment, you are selling the equipment or leasing it to your own customers?

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A. That is right.
Q. I want to make that clear. You own the equipment.
A. That's right. Yes, we own it.
Q. What was your second reason?
A. It was the -- I forgot what I said. Do you have it there?
(Discussion off the record.)
Q. From what I have just had my memory refreshed on, it seems like your second reason was that the County provides dark fiber and other services that BellSouth does not provide.
A. Right, right. Again, going back to the bundle of services that we provide, which is different than the single services that BellSouth provides. That was the reason behind it.
Q. So if I take your reasoning -- let me -- let me give an example for you, a hypothetical. You have two fast food restaurants on the same street. Okay?
A. I got one of those. Starbucks versus McDonald's. And the cup that McDonald's uses has t be provided by Starbucks. That is what is going on here. You have the coffee inside, however without the cup you cannot do it. We both sell coffee, but

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that is what it is. We sell other things like McDonald's. We need the cup that Starbucks gives you to provide the coffee.
Q. It is your testimony there is no competition between McDonald's selling their coffe and Starbucks selling their coffee?
A. You tell me. That is what it is.
Q. No, I am asking you the question. You're the one to testify under oath.
A. I don't think they are competing businesses.
Q. Well, let's --
A. They are usually side-by-side. They could be side-by-side. I don't see that as competing business.
Q. You see four gas stations on the corner. You don't think they are competing?
A. That is different because it depends how you you can turn into one and the other, where you are coming from. That is different.
Q. So if you have an intersection, you have four gas stations, according to you, they are not in competition with each other?
A. Yes, I am sure they are. Yes. But they offer exactly the same services, and they don't need

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each other to provide gas.
Q. Two restaurants, McDonald's and a Wendy's. McDonald's doesn't sell chicken sandwiches, let's hypothetically say. Wendy's does. Are you saying they are not in competition?
A. Yes, those are similar restaurants. But they don't need each other.
Q. But picking up on your testimony, one sells a greater number of products, Wendy's, that has a chicken sandwich and chicken products, than McDonald's who does not. According to you and yo reasoning, they would not be in competition.
A. No, that is not true. They are in competition.
Q. Why are they in competition, yet the County and BellSouth are not, when all your testimony is that the County has a greater number of products than BellSouth?
MR. HOPE: Objection to form.
THE WITNESS: For the same reason McDonald's and Starbucks are not in competition. Because Starbucks only sells coffee, just like BellSouth only sells voice connections to the local -- I mean services. And McDonald's sells

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other things, except the cup is provided by Starbucks, like I told you before, and the County only sells the coffee inside the cup. We need Starbucks to give us the cup to sell the coffee. A big difference.
Q. So the mere fact that Starbucks needs a McDonald's cup, according to you --
A. McDonald's needs a Starbucks cup.
Q. Because McDonald's needs a Starbucks cup according to you, that would take them out of competing with each other on the sale of coffee. Is that your testimony?
A. Well, the whole business is not selling coffee. We are talking about the business of competing with each other. As far as the businesse go, they can't compete with each other.
Q. So going back to this document, you previously testified on MJ-24 that you reduced the cost of single line local network access because yo were afraid that customers would go to BellSouth o another provider.
MR. HOPE: Objection to form.
Q. How do you reconcile that testimony with what you have just said?

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A. Well, remember I said that we have an infrastructure that is already in place. We pay half a million dollars a month to 50 people to take care of our telecommunications business there. So we basically like to have some help by providing additional services to tenants of the airport to be able to pay for some of those costs that we incur by having all that infrastructure in there.
So yes, we would like to have more people getting our services. So therefore, if we charge them at a thousand dollars apiece, you are not goin to get anybody. So all of a sudden we have the burden of paying for all that at our cost.
If we make it to that, it becomes attractive to the users, they will buy it from us, and we will amortize or pay for some of the costs that we have at the airport.
Q. Do you recall testifying in this case previously on May 21, 2003?
A. Maybe. I recall testifying. I am not sure I recall what I testified about.
Q. I will help you along with that.
A. I am sure you will help me there.
Q. I will. You recall at that time being deposed, similar to like you are being deposed now.

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correct?
A. Um-hum.
Q. And at that time when you were deposed back on May 21, 2003, you were placed under oath, correct?
A. Yes.
Q. So the answers that you provided at that time were sworn and true, correct?
A. Yes.
Q. And the answers that you provided during this deposition, since you are under oath today, are supposed to be sworn and true, correct?
A. Yes.
Q. Today you have stated that, under oath, that the County is not in competition with BellSouth, correct?
A. Right.
Q. Let me read to you what you testified to under oath on May 21st of 2003. Page 28, line 14:
The question: "So would it be fair to say that the County is in competition with other telecommunication providers at the airport?"
Mr. Hope stated an objection to form.
Here is your answer: "We -- yes, we are basically there to provide them services, if they

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want us to provide them services. If not, they go to any company they want."
Didn't you at that time on May 21, 2003 testify under oath that the County competes with other telecommunication providers at the airport, which would include BellSouth? Yes or no?
MR. HOPE: Objection to form.
THE WITNESS: Is that what I said?
Q. Yes.
A. That is not what I read that I said.
Q. I will hand it to you. I will mark --
A. We are basically there to provide services if they want us to provide them services. If not, they go to any company they want. Yes, that is what I said.
Q. I am going to mark your prior testimony as MJ-35, and I will ask you to turn to page 28 again.
MR. HOPE: Let me stop you for a second. Don't you mean to mark it PG-35?
MR. GOLDBERG: Yes, I do. Thank you. I will remark it PG-35. Thank you.
(Thereupon, Pedro Garcia Deposition, Dated 5-21-03, was marked as Plaintiff PG's Exhibit 35 for Identification.)
Q. Does that not refresh your recollection on

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May 21st of 2003 you testified that the County was in direct competition with other telecommunication providers at the airport?
A. Yes.
Q. Thank you.
A. But I'm -- I am saying yes to what I see on page 28. I don't recall -- there is no question from me here that refers to the yes, we are in competition.
Q. Question on line 14, page 28: "So would it be fair to say that the County is in competition with other telecommunications providers at the airport?"
Answer on line 18: "Yes." And then you go on to say, "we are basically there to provide them services, if they want us to provide them services. If not, they go to any company they want
A. Well, I guess my intention here was to qualify my yes answer.
If I may add to this, telecommunication providers could be anybody that sells equipment, and we are in competition with them selling equipment. So this is a broad question here.
Q. So is it your testimony you are in competition with those entities that are selling

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equipment, but not with BellSouth who is providing telecommunication services?
A. We do sell equipment or lease equipment. So anybody else that does that, we could be considered in competition with them. For the reasons that I explained before, we are not in competition with BellSouth.
Q. By your testimony, BellSouth provides the same service that you do; yet -- or strike that.
According to you, at least one service that you do -- and you are saying that you don't compete for that one service?
MR. HOPE: Objection to form.
THE WITNESS: We provide a service that BellSouth provides with the help of BellSouth. We cannot provide it without the help of BellSouth. So it is not the same service.
BellSouth doesn't need the County to provide the service. We need BellSouth to provide the service. That makes it totally different.
Q. Isn't that just a cost -- isn't that just a cost of your doing business? You need BellSouth to provide the service, according to you, so you pay

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for the help that you get from BellSouth, but then you alter your price structures, as you have just testified to, to be able to compete with BellSouth for the end user product; that is, customers at the airport. Is that correct?

MR. HOPE: Objection to form.

THE WITNESS: I don't know. I see it that I couldn't possibly compete with someone that I need to provide what I need.

Q. Just to boil it down, your testimony is that because you need BellSouth in some way, shape or form, for you to conduct your business, that is, to provide telephone service, you cannot, therefore, by definition according to you, compete with BellSouth.

MR. HOPE: Objection to form.

THE WITNESS: That is correct. It involves the kind of service and in the business side of service, you don't give us any break -- BellSouth doesn't give the County any breaks on the costs. So by definition, BellSouth is already making a profit when they sell us that connection.

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How can we possibly compete with BellSouth when we have to take that cost and then, as you suggest, maybe enhance that cost and sell it to somebody else? That would not be any kind of competition.

Q. So if BellSouth were to reduce its cost to you so that they weren't making any profit on the service they are providing to you, then would that be sufficient to allow you to conclude that your compete then would be able to compete with BellSouth?

MR. HOPE: Objection to form.

THE WITNESS: No. That is only 50 percent of the problem. The other problem is, again, that we need BellSouth for the providing of the service. And BellSouth doesn't need the County. So it is not apples and apples.

Q. You are familiar with competitive local exchange carriers, correct?

A. Competitive local exchange carriers. Well, I guess they are companies that provide local service.

Q. Yes.

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A. Yes.

Q. They use BellSouth to complete local calls, just like the County is using BellSouth to complete local calls, correct?

A. In some cases.

Q. Okay. And in those cases, wouldn't you agree that they are competing with BellSouth?

A. If they provide the same services that BellSouth provides, yes. I would imagine so.

Q. Is there any other reason you can think of as to why another competitive local exchange carri that uses BellSouth to complete their local phone call would not be in competition with BellSouth?

MR. HOPE: Objection to form.

THE WITNESS: Would not be in competition with BellSouth?

Q. Actually, let me withdraw that. Let me ask you this: Can you name for me a competitive local exchange carrier that is not in competition with BellSouth?

A. Well, I imagine if they sell local service and BellSouth sells local service, they are competing with each other.

Q. The County is selling local service, correct?

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MR. HOPE: Objection to form.

THE WITNESS: No. The County is selling equipment to access the local service.

Q. Isn't that what a competitive local exchange carrier does as well?

MR. HOPE: Objection to form.

THE WITNESS: I believe they sell the access to the local network.

Q. Isn't that what you are doing as well?

A. We lease to the customers the equipment that they need to access the BellSouth facilities t complete a local call.

Q. Why is it hard for you to testify here today that you are selling access to local network just like any other local exchange competing carrier?

MR. HOPE: Objection to form.

THE WITNESS: Selling access to the local -- to the BellSouth facilities that access the local network. The public network. It is not hard to testify. I am just telling it the way I see it. Very easy for me to testify to this.

Q. So every other local exchange carrier

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competes with BellSouth, but the County doesn't. Is that your testimony?
A. Totally different businesses.
MR. HOPE: Object to form.
THE WITNESS: The other local exchange carriers, they have total control over -- they have connections to the public network, and they basically stop at the demarcation point. Our business is from the demarcation point in. The other competitors of BellSouth, they are from the demarcation point out. That is a different thing. So all of you are out there from the demarcation out. We are from the demarcation in.
Q. MJ-24, the document that we started with, I will take you back to this. Is that document these proposals -- strike that.
Is this a former proposal that is still being currently used today?
A. This is a sample pricing, as you can see, X, Y, Z airline. This is just a sample voice -- a sample of the line items that could be included in a voice proposal, with the exception of the $18 -- okay. That is still there for the faxes and so

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forth. Yes, that is what it is.
MR. GOLDBERG: Why don't we take a five-minute break, and then we will resume the deposition.
MR. HOPE: Stand by. We are off.
(Recess in proceedings.)
THE VIDEOGRAPHER: We are back on the video record.
Q. (By Mr. Goldberg) Mr. Garcia, are you ready to continue with your deposition?
A. I am.
Q. Let me show you what has been marked as MJ-25 previously in this deposition. This is an e-mail dated March 14, 2002, from Howard Werner, to Maurice Jenkins, yourself, and Mr. Stout. I will give you a second to review that, please. It is re: Future shared tenant service estimates.
A. Okay.
Q. Who is Howard Werner?
A. He is like a staff person that reports directly to Maurice Jenkins. He works for the aviation department and basically handles -- he has his hands in different things.
Q. Who is Len Stout?
A. He was a consultant that is no longer with

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us. He is with Dade Aviation Consultants.
Q. And there are really two e-mails on this document because the second e-mail down is from Mr. Stout, to people, including you, correct?
A. Yes.
Q. Can you tell me what the first e-mail, dated Wednesday, March 13, 2002 at the bottom was to indicate to Mr. Jenkins and yourself? Explain that e-mail to me, please.
A. Well obviously, this is an answer to something that is not here. I don't know what looks almost too good refers to. I would assume he is examining some estimates of future revenues from STS to the aviation department.
Q. And these e-mails are written shortly after the County purchased all of Nextira's assets, correct?
A. Right.
Q. And so isn't the purpose of the e-mail from Mr. Stout to identify for you and Mr. Jenkins and the like the amount of future estimated revenue that the County would achieve by operating this system?
MR. HOPE: Objection to form.
THE WITNESS: He probably came up

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with his own estimate. I guess he is basing these numbers on his own projections on this at the time.
Q. But the purpose was to estimate revenues, correct?
MR. HOPE: Objection to form.
THE WITNESS: It looks that way, yes.
Q. And the estimated revenue here, according to Mr. Stout on March 13, 2002, is about $15 million per year at present NextiraOne rates, correct?
A. Yes.
Q. And that is for the provision of STS services?
A. That is what it seems like.
Q. Did you achieve that?
A. I think we are getting a 1.3 million a year now gross revenues.
Q. From STS services?
A. Yes.
Q. I thought previously under oath you testified that you couldn't calculate that amount.
A. No, I didn't say that. I said I got -- we know the gross revenue. Obviously, we know how much money we get in.

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Q. You don't know how much profit?
A. We don't know whether that is a losing proposition or we are making profit. We don't know the cost side.
Q. You don't know the cost side of the STS service.
A. Right.
Q. Does anybody know the cost side of the STS service at the County?
A. I don't think so.
Q. Are you trying to correct that problem? Is anybody trying to correct that problem?
MR. HOPE: Objection to form.
THE WITNESS: Not that I know of.
Q. Who is the person responsible at MDAD or the airport for tracking the finances as it relates to the operation of the telecommunications facility there?
A. All the revenues and costs in general are basically the responsibility of the finance department, of the aviation department.
MR. HOPE: Objection to form.
Q. Who is the head of the finance department, aviation department?
A. I think his name is Zeek. I forgot his --

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MR. HOPE: Zeek Orji.
THE WITNESS: O-R-G-I?
MR. HOPE: No, O-R-J-I
Q. Let me show you what I have marked as MJ-29 previously in a deposition, and a copy. Do you recognize this type of document?
A. This looks like an STS bill form.
Q. I ask you to turn to the second page of that document, MJ-29.
A. Okay.
Q. And this is an invoice that was sent to an MDAD customer in about August of 2002, correct?
A. Yes.
Q. And one of the line items that you are charging your customer for -- well, strike that.
The first line item is Meridian One Port. That is part of the switch access that we previously described. Is that correct?
A. Yes, correct.
Q. What is a Meridian One Port?
A. It's the port that allows the connection of the telephone to the PBX. Meridian is the maker of the PBX.
Q. And advanced features, call waiting, etcetera, are those the features that the PBX

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provides?
A. Correct.
Q. So you are charging for, in this case, $5 per unit, and there are four units, so it is an extended cost of $20 for those features?
A. Yes.
Q. What does the discounted total mean in that invoice?
A. Discounted total? Where is that?
Q. On the right-hand side here.
A. Oh.
Q. Why is there a discount provided?
A. This is basically a discount that probably Nextira makes to the users for the five-year -- signing a five-year contract. This is basically the same -- like I said, this is the price scheme they used to have prior to January of 2002. We just basically kept the same charging scheme.
Q. Why offer a discount at all?
A. Like I said before, it is to be able to make the equipment that we provide more attractiv so we can get a better utilization of it by selling some of it to tenants of the airport.
Q. Any other reason?
A. No. If you want me to expand on that, we

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have a certain fixed cost associated with the people that we pay at Nextira to provide the telecommunications services for everybody there and maintain the equipment. And if we can have some o the tenants utilize this equipment and pay us for it, it will contribute to the -- to mitigate the cost of that service for everyone.
Q. Why do you care about that if you can't figure out what the cost is in the first place?
MR. HOPE: Objection to form.
THE WITNESS: Well, because it is costing us a lot of money to maintain that infrastructure, so every little bit helps. It helps the taxpayers of the County.
Q. So you are just offering a discount in the hopes that it helps cover the costs.
MR. HOPE: Objection to form.
Q. Is that your testimony?
A. Yes.
Q. Just so we are clear, your testimony is that the discount is offered just to increase utilization by an existing MDAD customer, correct?
MR. HOPE: Objection to form.
THE WITNESS: To increase the

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utilization of the existing infrastructure that we have. In other words, we have all the wires, all the common equipment, all the people that work there. Those costs are pretty much fixed to an extent. So the more -- if we can get some other tenants to utilize those services and pay us for it, obviously it would be better for the County.

Q. Would you agree that the use of the discount is done by the County to increase its customer base?

MR. HOPE: Object to the form.

THE WITNESS: Yes.

Q. And by increasing your customer base, aren't you, by definition, desiring or taking away customers from other providers at the airport?

MR. HOPE: Objection to form.

THE WITNESS: From anybody maybe that sells equipment, yes.

Q. Do you have any customers that you sell equipment to, but you don't provide telephone voic access for?

A. Yes.

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Q. Do you sell equipment to BellSouth's customers at the airport? Could you give me a specific customer or instance that the County has provided equipment to or sold equipment to or leased, as you call it, equipment to a BellSouth customer at the airport?

MR. HOPE: Objection to form.

THE WITNESS: I really don't know. I would assume that it is possible for a particular customer to have, let's say, the rent space at the airport and they want BellSouth to provide them access to the public network, but inside the -- no, that would not be the case because the equipment that we buy is proprietary and it comes from our PBX.

Unless they want analog lines and they just want to buy new phones and connect to the BellSouth line, that would be the only case where that would happen. Other than voice. We do sell equipment for other than voice.

Q. If it relates to voice, are you aware of any instance, factual instance, not possibility or what have you, where you have sold voice equipment

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to a BellSouth customer? Yes or no?

A. I am not aware of it. That doesn't mean there could not be some, but I am not aware of it.

Q. Is it your testimony that a discount is offered only to expand your customer base via th sale of equipment, but not the sale of access to th telecommunications network for voice?

MR. HOPE: Objection to form.

Q. Is that your testimony here today? Yes or no?

MR. HOPE: Objection to form.

THE WITNESS: The way the people access the public network is through our equipment. So if we have them purchase our equipment, we will increase the utilization of our equipment, and, at the same time, with that equipment they can access the public network.

Q. As you have testified before, you would agree that the purpose of this discount is to increase your customer base at the airport?

A. Yes.

Q. What is the charge for $18 here or $72 as shown for single line local network access?

A. That is the charge for connecting from the

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PBX out to the world, the network access charge. That is the charge that now we have consolidated into five for $49. It used to be $18 per --

Q. But that access allows customers to complete a local call, correct? Your customers complete a local call, correct?

A. Yes.

Q. So MDAD is charging for the completion of the local call, correct?

A. For the ability to complete the local call. We don't charge by the call.

Q. But for the ability to complete local calls.

A. Yes.

Q. You would agree with that?

A. Yes.

Q. Is there a reason for a customer to lease this equipment from you, as exemplified on the second page of MJ-29, that being Meridian One Por or Advanced Features, or single line local network access if they didn't want to complete either internal calls at the airport or local calls?

MR. HOPE: Objection to form.

THE WITNESS: No. That is the purpose of all that equipment.

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Q. By the way, going back to that second page, the first line there, the Meridian One Port, you said that is really the PBX, correct?
A. Yes.
Q. When it said the port, is it just the port that this customer is using in the PBX that you are charging for?
A. Yes. I am assuming he has nine phones, and this is the way the phone is connected through the PBX, through those ports.
Q. Is it through that connection that the PBX provides the dial tone to that customer?
A. Yes.
Q. So the $12, extended to 108, discounted to 97.20, at least on this example, is the charge for the PBX and the dial tone, correct?
MR. HOPE: Objection to form.
THE WITNESS: A charge for the access to the PBX that provides the two dial tones that we discussed before, yes.
Q. As we sit here today, the airport's line item for Meridian One Port charge for the PBX has not changed in any way, shape or form, contrary to your testimony about the single line local network access. Is that correct?

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MR. HOPE: Objection to form.
THE WITNESS: Correct.
MR. GOLDBERG: Let me check my documents.
(Discussion off the record.)
THE VIDEOGRAPHER: We are back on video.
Q. (By Mr. Goldberg) If I could ask you, Mr. Garcia, to turn again to the second page of MJ-29. I had asked you about the Meridian One Port single line local network access. I neglected to ask you about the next line down, companion networl access. What does that mean?
A. A companion is a subsystem of the Meridian One PBX that allows for wireless communication. It basically provides phones like the wireless phones you have in your house that you can walk around with, around the airport. We have antennas all the way around the terminal. You can take those phones with you and use them like a regular phone, except they are wireless. It is like a subsystem that is provided off the Meridian PBX. It is a proprietary system that Nortel provides. Nortel is the manufacturer of the Meridian telephone system. And that is something that BellSouth doesn't provide

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either.
Q. Let me show you -- if I could ask you to look again at MJ-23 and MJ-24. This is MJ-29. Yo have to go back. If I could ask you -- do you have MJ-23 there? It is the one with the picture.
A. Okay.
Q. I have an extra copy. Here you go. If you can turn to the fourth page of MJ-23. I just want -- it is a simple question, but just to make sure. You see the term network access on MJ-23, or the top, correct?
A. Okay.
Q. And we previously talked about this document, and it says network access cost. Then yo turn to MJ-24, and if I could point to you network access. Is network access on 23 the same -- have the same meaning as network access on 24, MJ-24?
A. Well, yes. What it is, is MJ-23 is basically the breakdown of all the equipment that is actually needed to provide the network access as is charged in MJ-24.
In other words, MJ-24 defines or describes how it is charged to the user, and MJ-23 defines all the equipment that is actually needed to provide what you charge for in MJ-24. That is why this is

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like a total. To provide 204 lines of network access you need all this equipment up here. Then you would charge that accordingly on here.
Q. So the cost and the numbers contained in MJ-23 for network access get figured into the amounts that are charged for the similar line item identified on MJ-24. Is that correct?
A. It seems to give you -- yes, it has all the equipment that you need to provide that part of the charge, and then from that it is, you know -- it tries to make a comparison between the cost and wha is actually charged for that.
Q. But from your experience and knowledge, do the numbers that are itemized as the cost for network access in MJ-23 get figured into the amount that are ultimately charged to the client on MJ-24?
MR. HOPE: Objection to form.
THE WITNESS: Well, actually, we are hoping that it does. These charges have been there for a while, and this study was made, whenever it was made, and we were basically trying to show what is the actual relation between the two. This is -- we charged --
Q. I am not holding you to these specific

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documents or the time period. As we sit here today I want to just confirm that the methodology is, as used by MDAD, that the network access cost is figured as exemplified in MJ-23, and then factored into the charges that are ultimately sent to the customer, via proposal like this under MJ-24. Is that correct?

MR. HOPE: Objection to form.

THE WITNESS: Yes. It is trying to establish some kind of relation between the two.

Q. And the network access, as defined in MJ-23, correlates to network access that goes out on the proposal as identified in MJ-24?

A. Yes.

MR. GOLDBERG: Let me just take a two-minute break, and we might be nearing the end. Thank you.

THE VIDEOGRAPHER: We are off.

(Recess in proceedings.)

THE VIDEOGRAPHER: We are back on.

Q. (By Mr. Goldberg) Mr. Garcia, we are going to continue and hopefully complete your deposition.

I am going to show you what has been

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marked as -- I will switch with you so you can use the marked one -- PG-32. This is an e-mail that you or your counsel brought with you to today's deposition. Is that correct?

A. Yes.

Q. And you wrote this e-mail to Mr. Jenkins on Tuesday, August 3rd, 2004?

A. Yes.

Q. Did you actually -- are these your words, from your own mind?

A. I wrote the e-mail, yes.

Q. What caused you to write the e-mail?

A. I can't recall exactly. It has to be a question that Mr. Jenkins posed to me that he wanted some information on this.

Q. Do you recall the question that Mr. Jenkins asked you?

A. No, I don't.

Q. Did Mr. Hope request in any way that you prepare this e-mail, or you just answer yes or no to that?

A. I'm sorry. Repeat the question.

Q. Did Mr. David Hope, your counsel here today, request in any way that you write this e-mail to Mr. Jenkins? And I would just like you to answer

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yes or no to that, without providing any more detail.

A. No.

Q. And you don't recall the conversation that you had with Mr. Jenkins that led to you writing this e-mail?

A. I don't, but I can tell you that from the first line it probably had to do with he wanted to know what we charge for for STS.

Q. The first line says, "For the provisioning local service to STS customers." So you are saying that you provide -- the County provides local service to STS customers, correct?

MR. HOPE: Objection to form.

THE WITNESS: That is what it says here.

Q. And this is your writing, correct?

A. Yes.

Q. Then it goes on to say, "MDAD charges for," and the first dot is, "the port in the PBX to connect the STS customer." Did I read that correctly?

A. Yes.

Q. Now, does that correlate to a charge that we see outlined on MJ-24, the form proposal that

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goes to the County's --

A. No. Actually, this answer is incomplete. I made it -- for reasons that I don't remember, I made it -- unless it was a mistake, I made it the network access charge.

As we have seen before, the cord is the connection to the phone. The second line in this e-mail is the phone and the cable, and the third charge would be the network access.

Q. So there should be three items there.

A. Yes.

Q. Can you explain to me the next line. Why you wrote that and what that means, and if that is correct, in your view.

A. Well, it says, "there is no additional charge for dial tone or for a local call completion." That is what it is. We charge for those two things, plus the one I omitted. There is no additional charges for anything else, per call or per dial tone or for anything else.

Q. So I understand you, you said there is no additional charge. But given your prior testimony here today, haven't you testified that since the County charges for the PBX, and the PBX is the piec of equipment that provides the dial tone, that the

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County is charging for dial tone.
MR. HOPE: Objection to form.
THE WITNESS: The County is charging for the equipment that allows you to get the dial tone and complete the call.
Q. So you would agree, it is just common sense, that the County is charging for, in part, the dial tone that it provides.
MR. HOPE: Objection to form.
Q. Through its own PBX.
A. Yes.
Q. And then the next part of the sentence is, what you are saying is there is no additional charge for local call completion. Given everything that you have testified to here today, isn't local call completion a function of the network access component that the County charges for?
MR. HOPE: Objection to form.
THE WITNESS: Yes.
Q. So there --
A. Like I said, that third item is omitted. If you put it there, then that sentence would make sense. But right now it is not correct.
Q. **Fair enough. So with all due respect,** respectfully, the way this sentence is written now,

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it is incorrect. The third line, "there is no additional charge for a local call completion," forgetting the dial tone issue. But it is not correct if you read it, "there is no additional charge for local call completion."
MR. HOPE: Object to the form.
THE WITNESS: The local call completion is done through the network access charge, which is not in this memo.
Q. Fair enough.
Just for record purposes, let's go down the line. "The PBX access to the public network is through BellSouth trunk lines." Is that an accurate statement?
A. Yes.
Q. Next: "Long distance charges are passed through without any surcharges." Is that accurate?
A. Yes.
Q. "At this time, there are no STS voice service customers in any of the GA airports." Is that an accurate statement?
A. Yes.
Q. What is GA?
A. GA is general aviation airports. We also -- the County also owns the Homestead and

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Opa-Locka airports and Tamiami. So those three airports are also the property of the County.
Q. And I notice in this document that was sent to your boss, Mr. Jenkins, three times, at least, you use the word "customer" or "customers," correct?
A. Yes.
Q. Is there anywhere in that e-mail that you use **the word "tenant" or "tenants?"**
A. No.
MR. GOLDBERG: I think that's all the questions I have.
MR. HOPE: I have no questions.
THE COURT REPORTER: Would you like **to read?**
MR. HOPE: Yes.
THE VIDEOGRAPHER: Stand by to go off the video record. We are off.

(Thereupon, the deposition was concluded.)

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_____
PEDRO GARCIA

Sworn to and subscribed before me this _____ day of _____, 2004.

_____
Notary Public in and for the State of Florida at Large.

CERTIFICATE OF NOTARY
STATE OF FLORIDA:
SS.
COUNTY OF DADE:

I, FANNY R. KERBEL, a Shorthand Reporter and Notary Public in and for the State of Florida at Large, do hereby certify that I reported in shorthand the deposition of PEDRO GARCIA, a witness called by the plaintiff in the above-styled cause; that the witness was first duly sworn by me; that the reading and signing of the deposition were not waived by the witness; that the foregoing pages, numbered from 1 to 154, inclusive, constitute a true record.

I further certify that I am not an attorney or counsel of any of the parties, nor related to any of the parties, nor financially interested in the action.

WITNESS my Hand and Official Seal this 12th day of November, 2004.

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Exhibit D

IN THE CIRCUIT COURT OF THE 11th
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

BELLSOUTH TELECOMMUNICATIONS, INC.,
a foreign corporation,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political
subdivision of the State of Florida,

Defendant.

VIDEOTAPE DEPOSITION

OF

MAURICE JENKINS

100 Southeast 2nd Street
Suite 1200
Miami, FL 33131

Thursday, August 5, 2004
10:15 a.m. - 5:00 p.m.

APPEARANCES

For the Plaintiffs:

MARTIN B. GOLDBERG, ESQ.
Lash & Goldberg, LLP
Bank of America Tower, Suite 1200
100 Southeast 2nd Street
Miami, FL 33131

For the Defendants:

DAVID S. HOPE, ESQ.
Assistant County Attorney
County Attorney's Office
P.O. Box 592075
Miami, FL 33159-2075

Also present:
Sharon Liebman, Attorney, BellSouth
Wayne Tubaugh, BellSouth
Dorian Denberg (on conference call) BellSouth

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THEREUPON:
MAURICE JENKINS,
a witness named in the notice heretofore filed, having been first duly sworn, deposes and says as follows:

MR. GOLDBERG: Present for the plaintiff BellSouth Telecommunications, Inc., Martin Goldberg, law firm of Lash & Goldberg on behalf of BellSouth. Also present is Sharon Liebman.

At the deposition here today as well is Wayne Tubaugh from BellSouth, as well as Dorian Denberg, who is present by telephone.

MR. HOPE: David Stephen Hope, Assistant County Attorney on behalf of Miami-Dade County.

MR. GOLDBERG: And your witness here today is Maurice Jenkins?

MR. HOPE: Correct, who is our head of our information technology division at Miami International Airport.

MR. GOLDBERG: Thank you.

DIRECT EXAMINATION

BY MR. GOLDBERG

Q. Mr. Jenkins, are you ready to proceed with your deposition this morning?

A. Yes.

Q. Once again, let me just introduce myself. My name is Martin Goldberg. I am here on behalf of BellSouth in the case that was just read into the record. Have you been deposed before?

A. Yes, sir, I have.

Q. So I am going to sort of shortcut my introduction and ground rules and let's just go over a couple of points, and then we will proceed into more of the substance of the deposition if you don't mind.

Most of my questions as you will see today can probably be answered with a yes or no. Of course, at any time if it can't be answered with a yes or no please do so.

If you want to answer yes or no and then explain your answer, obviously please feel free to do that as well. OK?

A. OK.

Q. The deposition that's going to occur is obviously a series of questions that I am going to ask you and then you are go to provide answers to those questions.

I just want to remind you since you have been sworn and you are under oath that any answer that you provide to a question that I ask has to be

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truthful, complete and not misleading. Do you understand that?
A. Yes, I do.
Q. OK. If you do answer a question we are all going to assume here on the record as well as for purposes of the videotape that you have understood the question that I have asked. Is that OK with you as well?
A. That's fine.
Q. OK. If by any chance you don't understand a question, which may be very likely because I may as a confusing question or a question that just doesn't make sense to you, please ask me to restate the question or to clarify the question or just tell me you don't understand and then we will try it again before you provide an answer.
Is that OK with you as well?
A. That's fine.
Q. Your lawyer is here, Mr. Hope. If at any time you want to take a break please let me know, I will do my best, although we may not take a break at that exact point in time, we will honor your request, of course, and proceed that way.
We'll get into more of your preparation for this deposition, but one last point I want to make is

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Mr. Hope is your attorney on behalf of the county. He serves as an advocate for the county's position and it is his job to argue and try to convince the judge in this case what the truth is and so forth. He has to and will argue the county's case before the judge.
Your role here today, though, I want to emphasize, is just to tell the truth, to provide the facts. It is not to advocate a particular position because I think a deponent's role is simply to answer the questions that I ask truthfully and completely.
Do you understand that?
A. Yes, sir.
Q. OK. Let me show you what has been marked what I'll mark as Plaintiff's Exhibit MJ1.
(Notice marked MJ Exhibit 1 for identification)
While you look at that with a copy to Mr. Hope --
MR. GOLDBERG: David, is it OK if I refer to you as David?
MR. HOPE: David is fine.
Q. Do you recognize this document?
A. Yes, sir, I do.
Q. Have you seen that document before?

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A. Yes, sir, I have.
Q. This is the notice of taking of videotape deposition for this morning's deposition. And it was addressed to have appear at this deposition the defendant, which is the county's corporate representative with the most knowledge of MDAD's provision of local service at county owned airports and the tenants to which such local service is provided; as well as number 2, MDAD's statement in its response to interrogatory number 3 dated March 1, 2004 that MDAD does not charge MDAD tenants for local service.
Did I read that correctly?
A. Yes.
Q. Are you designated by the county as the individual with the most knowledge of those areas identified in Exhibit MJ1?
A. Yes, sir.
Q. Can you tell me how it came about that you were designated as the corporate representative for purposes of this deposition here this morning?
A. My job title is the manager of information systems and telecommunications for the aviation department. That responsibility entails oversight of my two organizations, one of which is

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telecommunications.
Q. Let me just ask you, you might have to keep your voice up even though you have a microphone there, the videographer may hear you but the court reporter may not.
A. No problem.
Q. The other thing, let me clarify since there is a court reporter here. As you know, he can only take down one voice at a time, so I am going to do my best to let you finish your answers before I ask a question. And I'll likewise ask you to wait until I finish the question before you answer so he doesn't have a problem. OK?
A. Noted.
Q. Also, the other thing is your attorney obviously has the right to object to any question I ask on a limited basis. So I'd appreciate you giving a little bit of time for David jumping in and objecting before the answer is given because an objection after the answer is given is of no merit.
I am sure Mr. Hope obviously understands that.
You were saying about your job title. We'll go through that, but let me ask you a more precise question.

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Who designated you as a corporate representative for today's deposition?
A. When I received a copy of this document, it requested the individual most knowledgeable. I looked at it, and after discussion with counsel determined that it should be me.
Q. Were there other people considered to appear as the person with the most knowledge of these areas
A. I didn't consider anyone else directly. I could have probably so, but I did not.
Q. So you made the decision to designate yourself in short order, is that correct?
A. Yes, sir.
Q. Your current position again is what at the airport?
A. Manager of information systems and telecommunications.
Q. How long have you been in that position?
A. In excess of five plus years. I'm not sure exactly.
Q. If you could you just give me a general outline of your day-to-day duties and responsibilities please?
A. Managing two organizational units of a hundred people, responsible for all information

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technology and telecommunications work done at the airport on the IT side, everything from desktop support, application development, network management network design and implementation.
On the telecommunication side, customer service represents, cellphone deployment, coordination with cellphone providers, installations of telecommunications equipment, coordination of services, working with our long distance provider, which is MCI, and also coordinating with BellSouth for work to be done on airport property.
Q. Any other general areas that you are responsible for, other than those you have listed?
A. Yes. We'll be here for a while. Working on new design implementation, common use, facility development for the airport, which is roughly about $130 million of IT telecom related type work that we are doing over the next three years that has an impact both on the department and the customers that we serve, which are the carriers.
Q. So I guess it is safe to say you are the person responsible for the telecommunications facility at the airport?
A. Ultimate responsibility, yes, sir.
Q. How many people work for you or, maybe I

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should more accurately say, report to you?
A. In its totality just at a hundred if not a little bit over a hundred people.
Q. Those hundred people that report to you, are they segmented out into various departments or groups?
A. Yes, they are segmented into groups.
Q. Could you give me a brief outline of what groups they are in?
A. OK. We have systems and -- do you want the responsibilities or just the groups themselves?
Q. Why don't we just go to the groups first.
A. Systems, network operations, PC desk top and support. We have technical support/our technical shop.
We have telecommunications, which break down into customer service, construction, coordination, and also put a slash with project management because they also manage one of our service providers.
I think that just about covers it in its whole broad spectrum. There may be more.
Q. I would assume that within each of these groups there's a director or person of managerial designation?
A. Yes, in all of them.

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Q. And those individuals who are directors or management report to you?
A. Yes, sir.
Q. Is it accurate or safe to call you more of a really a CEO of this entity out at the airport?
A. A CEO? I want to make sure I understand you.
Q. Fair enough. Generally you have a lot of groups with directors reporting to you?
A. Yes.
Q. And the operation of telecommunications facility at the airport, would it be safe to say that you act in the role of a CEO although not called a CEO in the private sector they are called a CEO. Would you depict your role as a CEO?
MR. HOPE: Objection to form.
Q. You can answer.
A. I would deem it more of a CIO than a CEO.
Q. And CIO?
A. Is chief information officer.
Q. And that sort of leads to the next question: Who do you report to?
A. I report to the assistant director for administration.
Q. Who is that currently?

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A. Ms. Bobbie Phillips.
Q. Who does Ms. Phillips report to?
A. The deputy director for the aviation department.
Q. Who is that currently?
A. Mr. Steve Baker.
Q. And who does Mr. Baker report to?
A. The aviation director.
Q. And who is that currently?
A. Ms. Angela Giddens.
Q. Do you have any sort of direct line report to Ms. Giddens or is it through the people that we just mentioned?
A. It's normally through the people that we just mentioned.
Q. Going back to the groups that report to you, what is the purpose of the systems group please?
A. They insure that the operating systems that run our primary applications are current. They are responsible for storage management, computer operations and support.
Q. What is the purpose of the network operations group?
A. They do support of the network, insure fire wall maintenance, insure that the network revisions

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and current releases are up to date. They insure operability uptime.
Q. The word "network," specifically what does network refer to? Sorry if I missed that.
A. In this context of the network it is our infrastructure that allows the computers that are connected to, basically, interrelate to each other to be able to communicate to a common source, to a server, run an application, access to the Internet. Those types of things.
Q. And do you have a group responsible for PC desktop and support?
A. Correct.
Q. Is that computers that are on your employees' desks?
A. All PCs, all desktops that are deployed throughout the aviation department's facilities.
Q. Technical support group, what's the purpose of that group?
A. They are responsible for supporting our flight information systems displays. If you come to the airport all the flight markers that you see, the paging system, primarily radios, 800 megahertz, 40 megahertz type. But their role is for the operation inside the facility to insure that they are

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functioning well; that the systems are responsible for supporting impact or have to deal with passengers in some fame or some fashion.
Q. And the legal telecommunications group, can **you explain the purpose of that group?**
A. They are responsible for coordination for deployment of cellphones, pagers, coordinating with carriers, long distance carriers, cellphone carriers, entities like BellSouth for work to be done at the airport. Especially as it involves construction and projects.
Q. Construction is sort of self defining. What do you mean by projects, can you give me an example?
A. A majority of the projects, most of the projects, ongoing at the airport right now involve, there's an IT or there's a telecom component of which it requires, if there's demolition -- one example is the concourse, the north terminal for American Airlines involves the demolition of some telecommunications rooms.
We have to coordinate that demolition to insure we minimize impact of service.
So Bell is in one of the rooms. We need to coordinate with Bell that this room is going to be demolished, need to coordinate when you are going to

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come, move out your facilities, move your facilities out and move them into a new location so that it doesn't impact anybody utilizing services.
That's when the coordination comes into play. So we work with the contract, work with the providers that are currently on the airport property.
Q. Who is the director or head of that group, **the telecommunications group?**
A. Pedro Garcia.
Q. Who is the head of technical support group please?
A. They report to Pedro but Steven Podley is the superintendent.
Q. How do you spell his name?
A. P-O-D-L-E-Y.
Q. And he reports to Mr. Garcia?
A. Right. In my organizational unit there are two reports basically that govern the tier. I have subsections with the managers. However, there are two individuals that support or basically drive computer services and telecom.
Q. So the telecom side we find Mr. Garcia, is **that correct?**
A. Yes, sir.
Q. And on the other side is who?

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A. Carlos Garcia.
Q. And the other side what did you refer to that as? Sorry.
A. I'm sorry.
Q. My fault. You have the telecom group on one side which is Mr. Pedro Garcia. The other group's designation or the other chain you gave a designation. What designation is that?
A. I call that computer services.
Q. And that is Mr. Carlos Garcia?
A. Yes, sir.
Q. And just for purposes of record can you tell me who is responsible for the PC desktop and suppor group?
A. Michelle Thames.
Q. Spell that please.
A. T-H-A-M-E-S.
Q. Thank you very much. Network operations, who is responsible for that group?
A. Michelle has some of it, but most of it belongs to -- I'll leave that where Michelle as well. I'm separating, but Michelle has most of it. And Jesus has a part of it but leave it at Michelle.
Q. Fair enough. And the stipulation?
A. That would be Michael Lyn.

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Q. Lyn?
A. Yes, L-Y-N.
Q. Ms. Phillips, who is the assistant director for administration, who reports to her other than yourself at the airport?
A. She has administrative services, she has technical support, there's a division called technical support, contracts and procurement.
Q. Where is her office? Let me ask you that. I don't need an exact address. Is it at the airport?
A. It is at the airport but not in the terminal directly.
Q. And Mr. Baker, where is his office?
A. In the terminal.
Q. And then Ms. Giddens?
A. Also in the terminal.
Q. Regarding your designation as the person with the most knowledge of these areas, for purposes of this deposition this morning, did you have any conversation about your designation with either Ms. Phillips, Mr. Baker, or Ms. Giddens?
A. No, sir, I did not.
Q. Did you have any conversation regarding your designation with either of the two Mr. Garcias, Pedro or Carlos?

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A. Yes, sir.
Q. Which one or both?
A. Pedro Garcia.
Q. We'll come back to that. You said you have been in this position for approximately five years, is that correct?
A. It could be longer. I don't know. I've been at the airport for a while.
Q. That's the next area I wanted to go to. Before I go to your prior experience at the airport, let me ask you, let me take you back to 2002 for purposes of this case.
Was the same structure in place, same reporting structure to you in place as what you have just outlined for us here today?
A. I am not sure. I believe it to be true.
Q. Any significant changes that have occurred in the reporting structure to you between 2002 and today August 2004?
A. As I said, I don't know. I have to look at the start date of some staff individuals.
Q. Were your duties and responsibilities in any way different in 2002 than they are today as you have outlined them in August of 2004?
A. No, sir.

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Q. Prior to taking your current position what position did you occupy at the airport since you have stated you have been at the airport for approximately 15 years?
A. Prior position was chief of information systems.
Q. How long were you in that position?
A. Several years. I'm not sure, I'd have to go back to my HR records.
Q. Fair enough. And chief of information systems, in that capacity what were your general duties and responsibilities?
A. Short-term planning of IT, telco services, operations, maintenance, support, dealing with information technology and telecommunications.
Q. Do you know the year in which you took your current position?
A. I'll be guessing. I don't know. If you allow me to guess I'll say sometime between '97 and '98 I think, somewhere around that. But I'm not sure.
Q. Fair enough. As long as if you are not exactly sure and you say you are not exactly sure that's fine with us. I'm sure it is fine with your attorney.

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So just approximating, you were chief of information systems going back to approximately between 1995 and 1997, approximately, is that fair enough?
MR. HOPE: Objection to form.
A. Approximately.
Q. How about before your position as chief of information systems, what position did you occupy
A. Office systems supervisor.
Q. How long were you in that position?
A. Several years.
Q. What were your duties and responsibilities?
A. I ran the PC, what's currently the PC group and the network group.
Q. And chief of information systems, is that equivalent to the head of the systems group that yo outlined earlier that reports to you now?
MR. HOPE: Objection to form.
A. No, sir.
Q. No. What is the distinction?
A. The systems person reports to Carlos Garcia.
Q. Fair enough.
A. So -- I'm sorry.
Q. Fair enough, and I appreciate that correction. Was your prior position as chief of

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information systems equivalent to Mr. Lyn's curren position?
A. No, sir.
Q. How was it different?
A. It's a lower level position.
Q. Mr. Lyn's position is a lower level position or yours was at the time?
A. Mr. Lyn's is a lower level position. It reports to that position.
Q. Prior to your position that you just outlined sort of as head of the PC group, where wer you positioned at the airport?
A. I think I was an office systems specialist.
Q. For how many years were you in that position?
A. I think two or three.
Q. How many years were you in the PC group?
A. In the PC group?
Q. Yes, sir.
A. I am looking at almost six years.
Q. Six years as head of the PC group?
A. That wasn't your question. I want to make sure I answered your question.
Q. That's fair enough. I have two or three years as chief of information systems that you were

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in that position, then you were in the PC group, and I'm asking how long were you positioned in that group?
A. OK. Can I reask his question back to him, because I want to make sure I answer the right question.
Q. Fair enough.
A. As an office systems supervisor I managed the PC group. So I am in the PC group because I'm hands on because I'm managing a staff.
Q. Let me ask it more accurately. Before you took the chief of information systems position, your immediate prior position, how long were you in that position?
A. The immediate prior position would have bee about two years.
Q. And then going back in time the office systems specialist position you are saying you were in that position two or three years?
A. Yes, sir. That's about it.
Q. And before that what was your position?
A. I was an office systems tech 2.
Q. For how many years?
A. I think about eight months. That was not with the airport.

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Q. Where was that at?
A. Miami-Dade County main IT department.
Q. We have gone through four prior positions that you occupied before you went to your current position, is that correct?
A. Yes, sir.
Q. In any of the four prior positions that we have discussed did you have any direct involvement with the airport's relationship with any or all of the following entities: WilTel, Sentel or Nextera?
A. Please restate the question.
MR. GOLDBERG: Would you repeat the question.
(Question read)
MR. HOPE: Objection to form.
Q. You can answer.
A. What do you mean by relationship? We coordinated work. So that's coordination of work to be done at the airport, the answer is yes.
Q. Outside of coordination of work, did you have any other involvement with those companies on a day-to-day basis?
A. No, sir.
Q. What do you mean by coordination of work? Could you explain that to me please?

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A. If I'm doing network drops or I'm installing a new network or doing connection of a new employ in which there is no network connectivity or staff needs to coordinate with Nextera or the other two names that you mentioned, Sentel or WilTel to have work done to go ahead and have a cable drop run or cat 5 and then terminate it. So my staff or myself can go and complete the terminations and get a user connected.
Q. You are familiar with Nextera, correct?
A. Yes, sir.
Q. Did you personally work with representatives of Nextera in any or all of these four positions prior to your current position?
Do you want him to read the question?
A. Yes, please. As I said before, it is still coordinating projects of work to be done so I want to make sure you are asking --
Q. I guess the answer is yes, you did coordinate projects with Nextera?
A. Yes, sir.
MR. HOPE: Objection to form.
Q. Did you actually coordinate projects and have involvement with Sentel?
A. No, sir.

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Q. Did you have involvement or coordinate projects with WilTel?
A. Yes, sir.
Q. With respect to with WilTel, do you recall who you dealt with on a day-to-day basis from that entity?
A. Let's see. The previous marketing manager, we've had discussions of requirements as well as the technical manager, technical project manager on the project or working for WilTel.
Q. Were you involved in any way, shape or form with negotiating any business or contractual arrangements between WilTel and the airport or the county or MDAD, and I'll talk to you about that in a second.
A. Can you repeat the question.
(Question read by the court reporter)
MR. HOPE: Objection to form.
A. Yes, I believe so.
Q. Can you tell me in what respect you negotiated or had that type of contact with WilTel?
A. If there is project work to be done I would -- if there's project work to be done you could look at it, primarily it's -- if I need a drop or a network connection or need a line to be installed,

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it's having the discussion with WilTel of scoping the work to be performed, providing a price quote of the work to be performed before it's approved.
If I don't like the price or what's required in regards to labor or product used, the determination will be made whether it is yes or no or actually have them do the work or not.
Q. Let's go back to just establishing your knowledge and your role here as a corporate representative.
Could you just tell me briefly about your education. Where did you go to school? College first.
A. School University of Miami.
Q. What year did you graduate?
A. 1987.
Q. What degree?
A. I have a bachelor's in business administration with a concentration in computer information systems and business.
Q. Did you ever receive any graduate education?
A. You did some postgraduate classes at UM but that's it.
Q. What type of post-grad classes?
A. Mostly IT telecom related.

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Q. Where did you go to high school?
A. Miami Palmetto Senior High School.
Q. Were you born and raised in Miami?
A. No, sir.
Q. Where were you born and raised?
A. St. Andrew Parish, Ballton Park Road, Kingston, Jamaica.
Q. What have you done to prepare for this deposition this morning?
A. Nothing.
Q. Did you meet with Mr. Hope?
A. No, sir, I did not.
Q. Have you reviewed any documents?
A. Yes, sir, I did.
Q. So you reviewed documents in preparation for the deposition this morning?
A. I pulled out this thing. Yes, sir. Well, I pulled out the document.
Q. That's MJ number 1 you are referring to, the notice of taking deposition?
A. Yes, sir.
Q. Did you review any other documents before you came here today in preparation for this deposition?
A. No, sir.

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Q. When did you learn about -- when did you designate yourself to be the corporate representative for the purposes of this deposition?
A. When I got this fax that came to me that we were, faxing Plaintiff's Exhibit MJ1. When I received that and the date of the deposition I looked at what they were asking for and I opted, I opted to come and sit in to do this deposition.
Q. And this was, this notice of taking deposition MJ1 was mailed to your attorney or serve on your attorney on or about July 21 of this year, 2004.
So between July 21 and today, August 5th, is it your testimony that you have not reviewed any documents in preparation for this deposition outside of this document MJ1?
A. Yes, sir.
Q. Have you met with Mr. Hope at any time between July 21st and today to prepare or discuss this deposition?
A. No, sir.
Q. Have you met with anybody to prepare or discuss this deposition between July 21st and today, August 5th?
A. Yes, sir.

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Q. Please tell me who?
A. Pedro Garcia.
Q. When did you meet with Mr. Garcia?
A. Either Monday or Tuesday of this week.
Q. Today is August 5th, you are referring to perhaps August 2nd or August 3rd?
A. Yes, sir.
Q. Where did you meet with him?
A. It was right after a meeting in a conference room, I just told him I wanted to speak with him.
Q. When you spoke to him was anybody else present?
A. No, sir.
Q. How long did you speak to him?
A. About five, maybe ten minutes.
Q. Did you make any notes during that meeting?
A. Yes, sir.
Q. Do you have those notes with you today?
A. No, sir, I do not.
Q. You have a number of documents in front of you. I just want to make sure that the notes are not contained in the documents in front of you today.
A. No, sir.
Q. OK. Where are the notes located as we sit here today?

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A. They should be in my office on my desk, if I am not mistaken, or in the drawer.
Q. Let me just put on the record for your counsel's information and yours as well that we will ask to have those notes produced. So I'd like to ask you, and I am sure you can discuss this with your counsel, not to dispose of those notes, alter those notes or really do anything to those notes from this point forward until we have a chance to receive copies of them. Is that OK with you?
A. That's fine.
Q. I'm sure Mr. Hope will discuss that with you later. But thank you very much.
Why did you want to meet with Mr. Garcia?
A. Just -- two things. One, to let him know that this deposition was coming up and I was going. And I asked him just two questions.
Q. What were the two questions?
A. One, who was providing service or were we providing service at our GA airports, and he was going to respond back to me on that.
And what was the other question? And the other one I believe had to do with our STS customers, share tenant service customers, with reference to how many we had, if I am not mistaken.

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Q. With respect to the first question and maybe I don't have it written down right, but the first question was who or what was providing --
A. Service at our GA airports.
Q. And GA stands for?
A. General aviation airports.
Q. Sorry. Why did you need to ask him that question?
A. Because we have four general aviation facilities and some of them are pretty far out, and I thought that we may be the ones providing all the service there or it's a combination of us as well other telecom providers, and I wanted to verify that.
And the reason being I was looking at the statement that was in I guess the requirements here and I just wanted to make sure I got some clarification.
Q. And you are referring to again, just for the record, to MJ1?
A. Yes, sir.
Q. And so you on Monday or Tuesday when you spoke to Mr. Garcia you did not know for sure whether MDAD was providing telecommunications service at those other GA airports, is that correct?
MR. HOPE: Objection to form.

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A. No, sir. We have a presence at that facility because we have offices at the facility. I was inquiring whether we also, whether there also were other service providers out there as well.
Q. Did you receive an answer from him prior to the deposition?
A. Yes, sir.
Q. Can you tell me what that answer -- first, how did you receive that answer from him?
A. It's an e-mail that he sent me. So we can get that e-mail as well.
Q. I will ask you to retain that e-mail.
Can you tell us what the e-mail said?
A. It said three things. Primarily said that we don't have any STS services at our GA airports. Which means if there are any customers on the general aviation property getting telco service it's not coming via the aviation department.
Q. Do you know who it is coming via if it is not the aviation department?
A. No, sir, did not inquire. It could come from any telco provider.
Q. Did you follow up with Mr. Garcia with respect to his e-mail?
A. No, sir.

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Q. The second question you asked him was how many STS customers you have at the Miami Airport, is that correct?
A. Something to the effect of that. I'm not sure. It would be in the e-mail as to I think STS or how it is provided. You would have to look at the e-mail to be honest.
Q. Do you recall what the answer was to the second question?
MR. HOPE: Objection, privilege in terms of our customer and number of customers.
I am instructing the deponent not to answer.
MR. GOLDBERG: Just to make the record clear, it is your contention and assertion that the amount of customers or all customer information is privileged and confidential?
MR. HOPE: Correct. I think you can ask whether or not we have STS customers. He'll be able to answer that. But if you start getting into quantities, which you can break down, that should be privileged and protected.
MR. GOLDBERG: That's an issue we will have to take up with the court at a later date.
Q. Anything else discussed with Mr. Garcia during your five to ten minute meeting with him?

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A. No, sir.
Q. Have you ever reviewed Mr. Garcia's testimony in this case?
A. No, sir.
Q. Do you know whether or not he was deposed this case?
A. I believe he was.
Q. Have you had any discussions with Mr. Garci about his deposition in this case?
A. No, sir.
Q. Have you had any discussions with Mr. Hope about Mr. Garcia's deposition in this case?
A. No, sir.
Q. Have you read Mr. Garcia's deposition in this case?
A. No, sir.
Q. Have you read any of the pleadings that have been filed in court in this case?
A. Yes, sir.
Q. Do you recall what pleadings you have read?
A. One that had to do with I guess there were claims, I'm not sure, from BellSouth I think 22 of them, 25 of them, and the response that we sent back the department sent back to those claims.
Q. When you say claims, are you referring to,

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maybe let me see if I can refresh your recollection, interrogatories or questions that were asked and responses that were sent back, is that what you are referring to?
A. That sounds familiar.
Q. We'll go over that in a second. Let me just go back to Mr. Garcia's testimony. I just want to be clear.
Is it your testimony that you have not spoken to anybody, any person regarding Mr. Garcia testimony in this case?
A. That is factual. Yes, sir.
Q. And if I asked you to tell me what Mr. Garcia said or didn't say at his deposition would you be able to tell me anything?
A. No, sir.
Q. Who at the airport is responsible for overseeing this lawsuit?
A. I'm sorry, who is responsible for overseeing the lawsuit?
Q. Yes.
A. I don't understand the question.
Q. Who at the airport or the county -- let me stop here because it has been my error so far.
Would you agree with me and proceed in the

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following fashion, if I use the word airport or if I use the word county or if I use the word MDAD I mean to refer to all three of those entities, basically the county?

Will you understand that and answer appropriately as we go forward? Is that OK?

A. I want to make sure.

Q. Because I may interchange "airport" with "county" and "MDAD," but I want to make sure you are responding essentially on a broader scale. And if Mr. Hope has a problem with any particular question we'll take it up at that time and he can object to form.

MR. HOPE: That's fine just as long as we understand, and I think you do, that they are, the county versus MDAD versus the airport, they are distinct. So there could be times in the question if you ask something that you are making a generic and it is confusing.

MR. GOLDBERG: Understood.

A. County, MDAD and airport as three separate --

Q. Yes.

A. Yes, sir.

Q. Who is responsible for making decisions with

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respect to this lawsuit?

A. Making decisions -- I mean, ultimately I would look that the responsibility of this as being addressed against the department and the director and the county, and ultimately it is the governing body of the county.

Q. Let's start with backing up and going basic. The style of this case is BellSouth Telecommunications v. Miami-Dade County. That mea Miami-Dade County has been sued in this case, correct? Do you agree with that?

A. Yes, sir.

Q. The subject matter of the case, and we'll get into this in a few minutes, has to do with the airport. There's no dispute about that, correct?

A. Correct.

Q. And it has to do with the telecommunications facility at the facility. You'd agree with that, correct?

MR. HOPE: Objection to form.

Q. You'd agree with that, correct?

A. Yes, sir.

Q. OK. Now, who from the county or the airport to your knowledge given your position has responsibility for making decisions with respect to

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this lawsuit?

A. It goes back to what I said earlier. Ultimately as it applies to the airport it's the aviation director. As it applies to telecommunications and dealing with telco issues, it's myself.

Q. Have you had any discussions with the aviation director -- Ms. Giddens, is that correct?

A. Yes, sir.

Q. -- with respect to this lawsuit?

A. No, sir, I have not.

Q. Have you had any discussions with any of your supervisors that you outlined previously with respect to this lawsuit?

A. Yes, sir.

Q. Who have you had discussions with?

A. My assistant director which is Bobbie Phillips.

Q. Anybody else?

A. No, sir.

Q. On how many occasions have you discussed this lawsuit with Ms. Phillips?

A. Only when we have staff meetings and she would bring it up as to what's the status of the BellSouth lawsuit. Other than that there were no

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other discussions.

Q. Did you ever discuss with her aside from the status of the lawsuit the nature of the lawsuit or the claims that BellSouth has brought against the county?

A. Yes, sir.

Q. On how many occasions have you had discussions regarding the nature of the lawsuit or the claims that the county has brought?

A. A couple of times.

Q. Take me through those couple of times. When was the first time you had such a discussion?

A. When the lawsuit was initially filed.

Q. Who was present at the time of that discussion?

A. Not sure. I believe it's myself, my assistant director. I'm not sure if counsel was present.

Counsel might have been present, but just to raise the issue that there had been a suit filed by BellSouth.

Q. Was the substance of the suit discussed?

A. Yes.

Q. Can you tell me who said what?

A. No, sir, it's been a while, I could not.

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Q. You can't recall that discussion?
A. No, sir.
Q. At all?
A. It has been a while.
Q. Were there any notes taken?
A. I am not sure.
Q. Any documents generated as a result of that meeting?
A. I'm not sure.
Q. What was the ultimate decision or how did the meeting end with respect to this issue, this lawsuit?
A. It was -- the "it" was the lawsuit was filed and we are going to wait and see what happens afterwards.
It's been filed, and now the county has been placed on notice or the airport has been placed on notice and we'll go from there. And I think after that I think is when the deposition process started.
Q. When was the second time you had a meetin where this lawsuit was discussed?
A. I believe when we were going to file the interrogatories, I believe. The responses back to the claims in the lawsuit I think was the second tim we had a meeting. Other than maybe like a phone

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conversation that we were going to respond back to this document.
Q. So the first time you had a discussion about this lawsuit with Ms. Phillips was when the lawsuit was filed, and would that be in or about November o 2002, approximately?
A. I don't know the date.
Q. And the second time you had a discussion with Ms. Phillips was with regard to your responses to interrogatories in this case, is that fair to say?
A. I believe so.
Q. Who was present at the second meeting?
A. I don't know.
Q. You don't recall?
A. Don't recall.
Q. Where did that meeting take place?
A. I am not sure. I would be like if I told you I remember. I don't know.
Q. Can you recall anything of what was discussed a that meeting?
A. No, sir. It has been a while.
Q. What's your understanding of this lawsuit?
A. My understanding of it as told to me by BellSouth is that the department is operating as an utility and should not be providing service without a

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two-thirds vote of the populous of Dade County, or something along those lines.
Q. You said, as told to you by BellSouth. What do you mean to that?
A. That's how it was outlined to me by Mr. Tito Gomez when he mentioned that to me.
Q. When did he mention this to you?
A. I think we were having a conversation one day and that's when he told me he felt that the department, how we did STS services was in violati of the county charter.
Q. Was that the first time that you were ever made aware of BellSouth's position that the county's operation of telecommunications facility at the airport violated the charter?
A. Yes, sir.
Q. Do you recall when that meeting was with Mi Gomez?
A. No, sir.
Q. Let me see if I can give you some benchmarks. Was it after the lawsuit was filed?
A. No, sir.
Q. It was before the lawsuit was filed?
A. I would say so.
Q. But it was certainly after the county

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entered into its agreement with Nextera to purchase all of its assets and take over the operation of the telecommunications facility, is that correct?
MR. HOPE: Objection to form.
A. Please restate the question or --
MR. GOLDBERG: Mike, read it back please.
(Question read by the court reporter)
A. Yes.
Q. Was that a yes?
A. Yes, sir.
Q. So the first time you ever had knowledge of the allegation that there was a violation of the county charter for operating the telecommunication facility was after the county purchased Nextera's assets?
MR. HOPE: Objection to form.
Q. Correct?
A. Please restate. Violation. I don't think I violated anything.
MR. GOLDBERG: Read it back.
(Question read by the court reporter)
A. Yes.
Q. Do you recall the month and year when the county entered into its purchase agreement with Nextera? If I handed you a document, would that

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perhaps refresh your recollection?
A. No, I'm looking back at the year because I remember it was -- because I gave up a football game for it.
Q. Why don't I help you out.
THE WITNESS: When was the Rose Bowl game' 2001 I think.
Q. Let me help you out. Let me hand you a document. I won't even mark it as an exhibit. It is for the purpose of refreshing your recollection.
After reviewing that document is your recollection refreshed as to the approximate date of the transaction with Nextera?
A. Yes, sir.
Q. Approximately when did the transaction take place with Nextera?
A. January 29 of 2002.
Q. So the first time that it ever came to your attention that there was an alleged violation of the charter was after January of 2002, correct?
A. Yes, sir.
Q. Prior to January 29, 2002, and I mean prior to the execution of the agreement with Nextera to purchase its assets, are you aware of any consideration given to whether or not such a

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transaction would violate the county charter?
MR. HOPE: Objection to form.
A. You have to read that one back to me again.
(Question read by the court reporter)
A. I believe so, yes. I need to go back and look at a couple of things here. OK.
I have some recollection. After some recollection I think I might have to make some adjustments to some statements that were made.
Q. What do you recall?
A. Because I recall doing presentations by the parties that submitted the bid when this went out, which was BellSouth, Nextera and I believe Unisys.
There was a question posed in I believe in the orals to BellSouth that, given if you won this bid that you competed on there's a lawsuit that may be pending, how are you going to address that. I believe that was prior.
Q. I think you may have misunderstood my question. Let's just get the chronology correct at least on the record.
That bid process that you are referring to, didn't that bid process take place, number one, after the lawsuit was filed, do you recall?
A. It's a possibility. I think so.

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Q. And certainly that bid process took place after the county entered into its resolution to have the county enter into a telecommunications data network and shared airport tenant services management agreement with Nextera and the county's purchase of Nextera's assets, correct?
A. You have to run that by me one more time. I'm sorry please.
(Question read by the court reporter)
Q. Did you understand that question?
A. Uh-huh. No.
Q. The bid process -- the bid process that you are referring to was that not to determine who may replace Nextera as the manager?
A. Yes, sir.
Q. Of the telecommunications facility?
A. Yes, sir.
Q. OK. That was certainly after the county back in January of 2002 adopted a resolution and authorized the entry into the initial management agreement with Nextera as well as the purchase of Nextera's assets. Am I correct about that?
A. Yes, sir, you are. OK.
Q. So we have from a chronology standpoint, just to get everybody on the same page, in January of

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2002 you have the county's resolution that in says, and I am short circuiting this, did two things: One, authorized the county to purchase Nextera's assets and two, allowed the county to enter into a management agreement with Nextera for a two-year period I believe it was. Correct?
A. Yes, sir. Yes, sir.
Q. And then subsequent to that there was a bid process to see who would take over for Nextera at the end of that two-year period?
A. Yes, sir.
Q. Which I think ended in approximately February or March of 2004. Is that accurate?
A. Yes, sir.
Q. While I'm on that topic did anybody take over for Nextera? What happened with that? Is Nextera still managing the operation?
A. Yes.
Q. Was the bid awarded to Nextera?
A. Yes, sir.
Q. So do they now have an additional two-year term to manage the facility for the county?
MR. HOPE: Objection to form.
A. I believe the term is, I think it is three to five years. Not two.

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Q. Fair enough. So now we have our chronology set. Your testimony so far is the first time you were made aware that there was an alleged violation of the county charter was after January 29, 2002, after the county purchased Nextera's assets and managed, and entered into a management agreement wit Nextera, correct?
A. Yes, sir.
Q. Because I am referring to the conversation you had with Mr. Gomez.
A. Correct.
Q. But you are saying it was before the lawsuit was actually filed, is that correct?
A. Yes, sir.
Q. Now, with that background, here's my next question. Prior to January 29, 2002 are you aware of any consideration that the county, MDAD, or the airport gave to whether or not entering into the management agreement with Nextera or, more importantly, the purchase of Nextera's assets would violate the county charter?
MR. HOPE: Objection to form.
A. No, sir.
Q. So to your knowledge there was no consideration given to whether or not the county

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charter would be violated by the purchase of Nextera assets and the county's operation of the telecommunications facility as of January 29, 2002?
MR. HOPE: Objection to form.
A. No, sir.
Q. No consideration that you are aware of at all, correct?
MR. HOPE: Objection to form.
A. No, sir.
Q. So is it safe to say when you had the conversation with Mr. Gomez, Mr. Tito Gomez from BellSouth, his suggestion to you, again the suggestion to you that the county charter was being violated was a surprise to you?
MR. HOPE: Objection to form.
A. Yes, sir.
Q. Being surprised at that suggestion by Mr. Gomez, what did you do with respect to that issue?
MR. HOPE: Objection to form.
A. Nothing. Mr. Gomez mentioned to me that it was more of a legal issue than it was a technical issue, and I left it as such.
Q. Did you advise --
THE VIDEOGRAPHER: I didn't get the answer
A. Mr. Gomez mentioned to me it was more of a

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legal issue than it was a technical or operational issue, so I left it as such.
Q. Is it safe to say that Mr. Gomez's conversation with you was the first time anybody at the county to your knowledge was made aware of th allegation by BellSouth that the charter was being violated?
MR. HOPE: Objection to form.
A. Yes, sir.
Q. Now, he tells you about this allegation that the county charter is being violated by your operation of a telecommunications facility at the airport. What did you do to address that allegation?
MR. HOPE: Objection to form.
A. As I mentioned, it was a statement by Mr. Gomez and he mentioned to me it was more of a legal issue than it was a technical operational issue, and I left it as such.
Q. So you didn't discuss that issue with anybody at the county?
A. Not that I recall. If I mentioned it I'm not sure if I mentioned it to anyone, but I don't recall mentioning it.
Q. Did you put a memorandum together or ask fc advice as to whether or not the airport was violating

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the charter?
A. I'm not sure. I might have.
Q. You'd agree with me when he told you this it is a pretty serious issue if the county is violating its own charter, wouldn't you correct?
MR. HOPE: Objection.
A. I'm sorry. You would agree with me when Mr. Gomez suggests to you that the county is violating its own charter that that's a pretty serious issue, correct?
MR. HOPE: Same objection.
A. Yes, sir.
Q. It is not often where somebody tells you in your position out at the airport that you are essentially violating the law by operating a telecommunications facility, correct?
MR. HOPE: Objection to form.
A. Yes, sir.
Q. Doesn't happen every day, right?
MR. HOPE: Objection to form.
A. No, sir, it doesn't.
Q. So can you explain to me why you didn't go back to anybody associated with the county, the airport or MDAD and have a serious discussion abou that issue?

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A. Two things. My original statement, I'm not sure if I mentioned this to anybody or not, so I have to go back. I don't recall taking any notes to that discussion that I had.

And Mr. Gomez mentioned to me it was a legal issue. I left it. If it was a legal issue he would take it up via attorney to attorney or through legal channels.

Secondarily, when I came on to this airport in 1988, these services were being provided and ongoing. So if it's going on for the last twelve plus years it was more of a surprise that I am hearing this now than before.

So I left that with Mr. Gomez as he mentioned it to me that if he raised the issue and it was a legal issue that it would be an attorney to attorney discussion than it was what I am responsible for.

Q. Did you ask for a legal opinion at any time on this issue?

A. I don't recall. I might have.

Q. Let me show you what I will mark as MJ3 and have you review that document.

MR. HOPE: What did you mark as MJ2, just the resolution package to refresh Maurice's

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recollection?

MR. GOLDBERG: I did. And for purposes of record, MJ2 is a package that includes a resolution and the nonexclusive telecommunications, et cetera, agreement between Nextera 1 and Miami-Dade County and associated exhibits.

(Resolution and attachments marked Exhibit 2, and memo from counsel to M. Jenkins marked Exhibit marked for identification)

Q. Do you recognize that document, Mr. Jenkins?

A. Yes, sir.

Q. What is that document?

A. It is a memorandum from counsel to me reference BellSouth.

Q. It is dated March 5, 2002, correct?

A. Yes, sir.

Q. How did it come to be that this document was generated?

A. BellSouth -- I'm presuming BellSouth may have sent me a formal document of some sort, or maybe my discussion with Mr. Gomez propagated me to I guess make a request for an opinion from our attorney.

Q. Does this document refresh your recollection as to whether you went to the county attorney's

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office asking for their thoughts?

A. No, sir, it doesn't. I'm looking at March 2002. I have been dealing with a lot of things between then and now in July, August of 2004.

Q. Let me first ask, have you ever seen this document before?

A. I recall seeing it, yes.

Q. But you don't recall exactly -- well, do you recall the circumstances as to how it was generated

A. No, sir, I don't remember.

Q. When you got this document what did you d with it?

A. I don't know.

Q. Did you have any discussions with Mr. Hop about it?

A. I'm not sure, sir.

Q. Did you share this document with anybody else at the county or the airport?

A. I don't know. I don't remember. I don't remember. I don't recall.

Q. It's copied to Abagail Price Williams down below. Do you know who she is?

A. Yes, sir.

Q. Did you have any discussion regarding this issue with her that you recall?

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A. No, sir.

Q. But it's safe to say, is it not, that this document arose after BellSouth first informed you o their allegation that the county charter was being violated?

MR. HOPE: Objection to form.

A. I -- read the question back.

(Question read by the court reporter)

A. I don't know.

Q. In this memorandum Mr. Hope says BellSoutl is incorrect in its communication to you regarding the charter. Who at the county or airport or MDAD made a decision that Mr. Hope was either correct or incorrect with respect to his analysis in the March 5, 2002 document?

MR. HOPE: Objection to form.

A. Please repeat the question.

(Question read by the court reporter)

A. It would be the department, it would be the aviation department.

Q. Who?

A. The individual was, it would be the director or myself.

Q. Did you make the decision that Mr. Hope was correct in his view and therefore the county should

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go ahead and litigate this lawsuit?
MR. HOPE: Objection to form.
A. Yes. Wait a second -- I believe "yes" is the answer I want to give you. But let's try it again.
Q. Do you want the question repeated?
A. Yes.
(Question read by the court reporter)
A. I believe so. I want to say yes.
Q. If you say "yes," my next question is when did you make that decision?
A. I don't know. Might have been after I got his opinion back.
Q. On what basis did you make that decision?
A. Not sure. If it's going against the accusation that we are violating the charter, if his opinion states that we are not, then my decision would be to go forward.
Q. Was your decision to go forward based on Mr. Hope's March 5, 2002 document?
A. Not sure. Might have been that or other things. I'm not sure.
Q. Well, are there any other things that you recall?
A. Not at this time, no, sir.

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Q. Again, it is a pretty serious issue. One would think that you would recall what you based such an important decision on, correct?
MR. HOPE: Objection to form.
A. Yes, sir.
Q. But you don't recall?
A. No, sir.
Q. As you sit here today, just to make the record clear, you are not aware of any other analysis or facts or any other grounds for such a decision, correct?
MR. HOPE: Objection to form.
A. Yes, sir.
Q. You said you have been deposed previously. How many times have you been deposed in the past?
A. Maybe three or four.
Q. When was the most recent time you were deposed?
A. I think my divorce.
Q. We are not going to talk about that. Let's go to the next --
A. I did that three or four times, so that's the majority of my depositions.
Q. Let me ask you this question and I apologize for you having answered if that way.

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Have you ever been deposed as it relates to any of the operations at Miami-Dade county airport? Obviously I am excluding your divorce.
A. No, sir.
Q. So is this the first deposition where you have been asked to answer questions concerning the airport's operations?
A. Yes, sir.
Q. Have you ever have you ever been retained as an expert in telecommunications?
A. Clarification please.
Q. Have you ever been retained or hired by any third party, entity, business, corporation to be an expert with respect to telecommunications or airport operations?
A. No, sir.
Q. Let me ask you a couple of more questions and it might be time for a quick break. Are you OK to --
A. I'm fine.
Q. Let me show you what I'll mark as MJ4 which is a second amended complaint in this lawsuit.
(Second amended complaint marked Plaintiff's Exhibit MJ4 for identification).
Q. I'll give you a second to look at that. But

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my question is going to be have you ever read that document before? Let me substitute this copy for that.
A. I remember seeing it. It's been a while but I remember it, yes, sir.
Q. Just to be clear. This second amended complaint, MJ4, was just filed relatively recently in May of 2004. There have been two other versions of the complaint.
A. OK.
Q. This is the most recent version, May 2004. So with that clarification, not wanting to -- I don't want to mislead you in anyway, have you read the second amended complaint filed in May 2004?
A. I don't think so.
Q. Likewise, let me show you what I will mark as MJ5.
A. Yes, sir.
Q. MJ5 is Miami-Dade county's answer and affirmative defenses to the second amended complaint which you just looked at which was marked MJ4.
You'll see at the back of the document it is signed by Mr. Hope twice. My question to you is, have you ever reviewed that document?
(Answer and affirmative defenses marked

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Exhibit MJ5 for identification)
Q. While you ponder that question just for record purposes and to help you out, Mr. Hope signed that document on or about July 19 of 2004.
A. I'm not sure whether I read that document or not. I don't think so.
Q. So your answer is no?
A. Yes, sir.
Q. Next question is, did you have any role in reviewing the second amended complaint and determining what Miami-Dade County's answer should be either admitting or denying the allegations in the second amended complaint?
A. No, sir.
Q. Are you aware of anybody at the county other than Mr. Hope who was involved in making the decision to either admit or deny the allegations in the second amended complaint as are referenced in the county's answer, MJ5?
A. No, sir.
Q. Is it your understanding that Mr. Hope answered the complaint on his own?
MR. HOPE: Objection to form.
A. I'm sorry. Run that by me.
Q. Is it your understanding that Mr. Hope

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answered the complaint on his own?
A. No, sir.
Q. But you can't tell me from your knowledge as to who he may have met with or consulted with if anybody regarding the answer, is that correct?
A. Yes, sir.
Q. Is there anybody else in a better position than you with respect to this lawsuit who I could ask that question to or who would know who he met with and who was overseeing this lawsuit?
A. Depending on the questions, anybody could be asked, depending on what the questions are.
If they are technically related, then those questions would come to either myself or Pedro Garcia. If they are policy or statute related, that does not fall within the realm of my divisions.
Q. Let me show you what I will mark as MJ6. This is the county's response to BellSouth's request for contention interrogatories.
(Defendant's response to interrogatories marked MJ6 for identification)
Q. In simple, BellSouth asked a number of questions of the county and the county responded. You have seen this document before, have you not?
A. Yes, sir.

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Q. Let me direct your attention to the last, next to last page of that document. It has your signature on it?
A. Yes, sir.
Q. You would agree with me that the answers in this document or the responses respond to certain questions that BellSouth asked in this case, correct?
A. Yes, sir.
Q. Did you type this document?
A. No, sir.
Q. Did you write the answers that are contained in this document?
A. I provided information that went into this document.
Q. How did you provide information that went into the document? Can you tell me the process that you went through before you signed this document?
A. We met or I met, the staff met with counsel and we discussed the questions and then therefore presented the answer -- not the answers, the responses going back to the requests.
Q. Who was present at that meeting?
A. To the best of my knowledge it would be **myself, Pedro Garcia and counsel.**
Q. Did you make any notes during that meeting?

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A. Don't know.
Q. Did you present counsel with any documents?
A. It's a possibility. We have file folders going back from day one with BellSouth.
Q. After you had that meeting, what was the next step in how this document was prepared?
A. All information requested or discussed was turned over to counsel to formulate the responses.
Q. Were the responses provided back to you to sign?
A. Yes, sir.
Q. Did you read them before you signed them?
A. Yes, sir.
Q. Did you make any changes or revisions before they were signed?
A. I don't think so. No, sir.
Q. So everything in these answers was absolutely accurate and needed no revision on your part?
A. To the best of my knowledge, yes, sir.
Q. Do you recall approximately how long you met with Mr. Garcia and counsel?
A. No, sir.
Q. Let me show you what we will mark as MJ7.
A. Do you want this back?

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Q. Sure. Would you put it in the pile here. Thank you. Why don't you take a look at that document and I am going to ask you if you recogniz it.

(Affidavit marked Exhibit MJ7 for identification)

Q. This is an affidavit that you signed in this case, correct?

A. Yes, sir.

Q. How was this affidavit prepared?

A. With discussion with counsel.

Q. Anybody else present when you had that discussion with counsel?

A. Maybe the counsel's secretary. I'm not sure. Mr. Garcia may have been present, but I believe it was just myself, counsel and his secretary. But I'm not sure.

Q. Did you review any documents when you me with counsel?

A. I'm sorry?

Q. Did you review any documents when you me with counsel to prepare this affidavit?

A. Not to my knowledge, sir. I don't think so.

Q. Was the affidavit then presented back to you?

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A. Yes, sir.

Q. Did you make any changes or revisions to it before signing it?

A. I'm not sure.

Q. Not sure or no?

A. I'm not sure. There might have been a typo or a definition that maybe didn't look right, but I'm not sure if I made any -- outside of syntax, changes in syntax I don't think I made any changes.

Q. And you don't recall reviewing any documents in preparation of this affidavit, correct?

A. Yes, sir.

Q. Were you working at the airport in 1982?

A. No, sir.

Q. You were actually at the University of Miami before and before you got to the University of Miami correct?

A. Yes, sir.

Q. Have you ever seen the county resolution, the 1983 county resolution awarding a contract to Sentel?

A. Yes, sir, I have seen it.

Q. When have you seen that document?

A. Several years ago.

Q. Do you know what that document authorized Sentel to do?

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A. I believe so, having to do with provisioning of phone service or separation of service to the airport hotel.

Q. Have you seen the 1990 county board resolution as it relates to telecommunications services at the airport?

A. I believe I have seen it.

Q. When did you last see it?

A. Sorry, I don't remember.

Q. If you look at paragraphs 2 through 4 there's a long discussion of both the 1982 and 1990 agreements.

If you didn't review any documents and you didn't have any revisions to the affidavit, how woulc you know that what you are signing is true, accurate and complete?

A. Sorry. Run that by my again.

(Question read by the court reporter)

A. Data was gathered not just from myself, these are published documents, counsel has access t them, and I have staff that has access to them.

So I'm assuming that they were reviewed as well. I also rely on staff to provide information.

Q. So in essence you were relying on Mr. Hope

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for the accuracy of some of these past documents an some of these paragraphs, correct?

MR. HOPE: Objection to form.

A. Mr. Hope and staff, yes, sir.

Q. Who on the staff?

A. We have Maria Perez, who has been with us for a while, and Pedro Garcia.

Q. Did in fact Ms. Perez have any participation in the preparation of this affidavit?

A. I don't know. I don't know.

Q. I thought you stated previously that Mr. Garcia was not present at your meeting with Mr. Hop to prepare this affidavit?

A. My statement was I don't know who else was there. I said myself, his secretary, Mr. Hope and I don't know who else was there.

Q. But it is safe to say that you were relying on others in your view or making some assumptions that this information was correct when you signed th affidavit, is that a fair statement?

MR. HOPE: Objection to form.

A. Yes, sir.

MR. GOLDBERG: Why don't we take a ten-minute break if that's OK with you.

(Recess in the proceedings)

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BY MR. GOLDBERG
Q. Mr. Jenkins, are you prepared to proceed and continue with your deposition?
A. Yes.
Q. I've placed back in front of you an exhibit -- you are ready to proceed with your deposition?
A. Yes, sir.
Q. I have placed back in front of you Exhibit MJ6, which is a response to requests for contention interrogatories. If I could ask you to turn to the second page of that document.
Again, this is a document that you signed and attested that everything was true and correct therein, is that right?
A. Yes, sir.
Q. Let me direct your attention to the response that is listed under number 3 regarding interrogatory number 3. It says in the second paragraph, second sentence, BellSouth provides MDAD with dial tone for local service. Do you see that?
A. Yes, sir.
Q. And it's correct, is it not, that MDAD provides its customers local service at the airport, correct?

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MR. HOPE: Objection to form.
A. No, sir.
Q. Going back to the statement, BellSouth provides MDAD with dial tone for local service, wh do you mean by the words "local service"? Can you define that for me?
A. Local service for a user of a telecommunications device be it a phone that once th user picks up the phone and gets a dial tone can initiate a phone call, a local phone call.
Q. What is a local phone call?
A. One that does not incur long distance charges.
Q. Is there any other definition of local service that you would ascribe to your use of local service in this response to the interrogatory?
A. No, sir.
Q. So if I understand you, and correct me if I am wrong, local service to you as used here is an individual's ability to place a local call that's not a long distance call from a phone at the airport?
MR. HOPE: Objection to form.
A. Yes, sir.
Q. But again let me ask you, local service as you use it is I guess a local phone call and not a

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long distance phone call that involves a two-way communication, is that accurate?
MR. HOPE: Objection to form.
A. I'm sorry.
MR. GOLDBERG: Can you repeat.
(Question read by the court reporter)
Q. So is local service one service that MDAD provides to its customers?
MR. HOPE: Objection to form.
A. No, sir.
Q. Why do you answer "no"?
A. I don't provide local service.
Q. Why don't you provide local service?
A. I don't. I'm not a phone company. I don't provide local service.
Q. Explain, number one, why it is that your telecommunications facility does not provide local service?
MR. HOPE: Objection to form.
A. My statement is we are not a phone company and we do not provide that service. We are, we are -- don't provide local service and we don't provide long distance service.
Q. You have customers at the airport, correct?
A. Yes, sir.

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Q. They can make local phone calls, correct?
A. Yes, sir.
Q. They can make local phone calls using equipment and assets that the county owns, correct?
A. Yes, sir.
Q. And why is it not correct that the placement of a local phone call via the use of the county owned equipment does not constitute local service, the provision of local service?
A. In order to make a phone call you must go out through a line or a trunk line as they deem it -- well, there's a demarcation within the aviation department of our infrastructure of what we manage and maintain.
To get outside to make that phone call requires the ability to generate a dial tone and manage that call of which we do not do.
And the entity making a phone call, when they pick up the phone they get a dial tone, they are going through. The dial tone they are getting they are getting from a provider, whoever that provider may be. And that's what they subsequently pay for.
Q. So it is your position that the county is not providing a dial tone to its customers in any way, shape or form?

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A. We are giving -- no.
Q. Why do you answer no?
A. Because we are not giving them a dial tone. We are giving you a hand set, we are giving you connectivity, hardware to get to I guess what they call the demarcation point at which you can get that point to get that dial tone.
Q. Let's talk about that demarcation point.
What is that demarcation point? Explain it to me and to the judge who may watch this videotap
A. Our internal facility that we manage, our internal facility that controls how we route information goes to a point or several points that providers have either on our facility or off of our facility. We just provide the pathway to get to that facility which allows a user to make a phone call.
That's why when you pick up the phone call you get the dial tone. Outside of that, if we did not accessibility to that provider there would be no dial tone to make outside phone calls or local phone calls.
Q. You made reference to an internal facility and you also made reference to a pathway, correct?
A. Yes.
Q. Let me break it down. What is the internal

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facility that you are referencing?
A. We have what's called a -- can't really call it a phone system, they call it a PBX in which we manage what we deploy out to our users, aviation department users, to be able to use the phone to be able to make phone calls to other divisions, four digit extension types so you can call internally. And we have that availability in what we provide.
So we manage that PBX. From that PBX you would then go out via a pathway or directional poi to get the dial tone necessary to make a phone call.
Q. PBX as a definition or acronym, what does it stand for?
A. I believe it's public broadcast exchange. I'm not sure.
Q. Does the county own what's known as a switch?
A. Yes.
Q. What does a switch do or not do -- strike that.
What does the switch allow the county to do with respect to the provision of telecommunication services?
MR. HOPE: Objection to form.
A. Doesn't do anything to allow us to provide

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any services, telecommunications services.
Q. The switch has no effect?
A. Restate the question for me.
Q. What does the switch do, then?
A. What we do is, the switch itself serves as a component by which we can concentrate its utilization -- it allows us to -- let me put it in straight layman's terms.
You can, allow us to I guess, basically if you look at it this way, allows you to maximize utilization of your infrastructure.
So case in point. If you have four individuals that would need access going out, let's say, to make a phone call, to get dial tone, you would not need to have four direct connections at all times because those individuals aren't using the phone at the same time.
So you can go through a switch, and the switch can manage whether those four individuals can have the ability to at any point in time to be able to utilize the phone system and capitalize on the benefits that you can get from it.
Q. So you have the PBX which you are referring to as your internal facility, correct?
A. Yes.

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Q. Is there anything else that makes up what you are referring to as the internal facility?
A. No, we just have one big room with a whole bunch of devices.
Q. Then you made reference to a pathway. That pathway goes from your facility to your customers, correct?
A. No, the pathway goes to what we call almost like a demarc to get to our service provider.
Q. Where -- you tell me, where does the path way go?
A. There's, I think there's a room called 300X that's on the facility that goes to like a BellSouth closet. From there that's how you get the dial tone to go out.
Q. What takes the dial tone from your equipment that you own to your customers?
A. I'm sorry? What takes the dial tone from my equipment to the customers?
Q. Yes.
A. There is the connectivity that goes from the PBX to, via this pathway to BellSouth's facilities.
Q. So I just want to see if I understand this. You are saying that to go from your PBX, you agree that you own the PBX, what you are referring to as

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the internal facility, correct?
A. Yes, sir.
Q. And you would also agree that that was purchased from Nextera in 2002?
A. Yes, sir.
Q. And that PBX, how does a call get from the PBX to one of your customers at the airport such as Eddy's Ice Cream or Cafe Versaille or what have you?
A. I'm not sure they are customers. But we wire or we run cable, conduit to get to the customer or to the department to get to that facility and provide the hand set, and that's what we do from the PBX.
From the PBX, you then route it to local provider's facility for them to be able to utilize the phone system.
Q. Let's make it very clear. Going from the PBX to your clients, let's take clients in the airport terminal, it goes over cable, right, that the county owns, correct?
MR. HOPE: Objection to form.
A. Yes, sir.
Q. So the equipment that is utilized for a customer to receive dial tone is entirely owned by the county from the point that it goes from what you

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are referring to as the PBX to your client's telephone that they hold in their hand, is that correct?
MR. HOPE: Objection to form.
A. Yes, sir.
Q. So BellSouth or any other carrier does not own any of that equipment from the point of the PBX to your customer's telephone that they hold in their hand, correct?
A. That is correct.
Q. What else is needed for a customer to make a local telephone call at the airport outside of the equipment that the county owns both the PBX and the cabling and the telephones?
A. What else is needed?
Q. Yes.
A. You need a provider at the other end to be able to make the call. You need the provider that's going to provide you with the dial tone to make a call. Without that you just cannot make one.
Q. Does the county provide dial tone according to you?
A. No, sir, we do not.
Q. Who provides dial tone according to you?
A. BellSouth, Sprint, AT&T, MCI.

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Q. The dial tone that comes in, does the dial tone come into the PBX equipment that you now own at the airport, your internal facility?
You have a telecommunications facility, correct?
A. Yes.
MR. HOPE: Objection to form.
Q. Does dial tone come in from outside to that telecommunications facility?
MR. HOPE: Objection to form.
Q. It does, doesn't it?
A. I would say yes.
Q. OK. And the next question is, who provides that dial tone into the PBX equipment that you own?
A. Who provides the dial tone into the PBX --
Q. Yes.
A. BellSouth provides the dial tone into the PBX.
Q. And once it hits your PBX and your equipment don't you control where that dial tone goes or doesn't go or how that internal facility works?
MR. HOPE: Objection to form.
A. Don't I control where the dial tone goes or how the facility works?
Q. Correct.

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A. Yes.
Q. So on what basis do you state that the dial tone once it goes into your wholly owned PBX or internal telecommunications facility still belongs to BellSouth or other carriers?
MR. HOPE: Objection to form.
A. Because we are not the provider of dial tone. It is provided by said entity coming into the facility.
Q. But according to you, you don't believe you are providing dial tone to your customers at the airport?
A. Yes, sir, I am not providing dial tone to my customers at the airport. Customers -- we pay you for the dial tone, for the use of local service.
Q. When you say "you" you are referring to BellSouth or somebody --
A. BellSouth or any other telco provider because users within the airport can utilize whoever they want to for the provision of services.
Q. What do you pay BellSouth or any other provider for dial tone?
A. I have not looked at the bills. When the bills come we review them, I sign them or we sign them. I'm not sure exactly mat what the numbers are

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Q. Your clients, let's say, the airlines, are your clients at the airport, correct? Some air lines are your clients at the airport, correct?
A. Some of them, yes.
Q. If one airline employee wants to call another airline employee how do they make that call?
A. Currently it's a four digit dialing within the facility.
Q. Is that local service?
A. Even though it is internal within the facility, I'm not sure. I believe it might be.
Q. Who provides that local service?
A. If it's local service it's provided by BellSouth or whoever the -- if it is not four digit dialing. We offer it for utilizing our infrastructure.
If you are not utilizing our infrastructure, it is whoever the carrier opts to use.
Q. Anybody who makes an intercom call at the airport, are they not using your infrastructure, your equipment, your PBX, your pathways?
A. Not anyone. It depends on who you are using and -- there's nobody within the airport who is obligated to use the department's infrastructure to get to the outside or to be able to make local calls

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or long distance calls. There's no carriers that's obligated or no management company that's obligated. They can use whoever they want to.
Q. Because you are competing with other carriers for customer base, correct?
MR. HOPE: Objection.
A. No, I am not competing. We offer a service because we manage the facility and we have infrastructure at the facility.
Q. You are not in competition with anybody in the telecommunications industry out at the airport, is that your testimony here today? I just want to make sure.
A. I'm not in competition with any telco provider because I don't provide dial tone.
Q. So do you compete, does the airport, MDAD, compete in any way in your view in the telecommunication industry?
MR. HOPE: Objection to form.
A. I don't think, I don't think we're competing. We offer a service of putting in a common infrastructure that anyone can utilize to perform your functions.
And it is entirely up to the carrier as to what they choose to do or to the management company

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or to whoever who they choose to use.
Q. We are using a lot of phrases. Who do you mean by the carrier?
A. The airline.
Q. A customer?
A. A carrier being an airline. Not necessarily a customer. They don't have to be a customer of the department.
Q. Let's talk about customers of the department.
A. All right.
Q. The customer of the department makes an intercom call, four digit call inside the airport. Is that local service according to you?
A. I -- I'm not sure.
Q. Why are you not sure?
A. Don't know.
Q. Previously you testified that you don't provide local service at all. Why are you now not sure?
A. My statement, we don't provide local service, and my statement is if you are making a four digit call if you are internally within the facility routing through our PBX I am not sure whether that is deemed to be a local service call.

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But we don't provide local service. That's a definition that I can't answer.
Q. And am I correct in summarizing your position is you don't provide local service because according to you you don't provide dial tone?
A. Yes. Yes, sir.
Q. Yet you would agree with me if somebody in the airport facility, one of your customers, makes an intercom call they are using dial tone?
MR. HOPE: Objection to form.
Q. Correct?
A. That's a possibility.
Q. What's the other possibility?
A. Well, yes. Yes.
Q. And if they are using dial tone to make an internal intercom call, then why are you unsure, according to you, whether or not that's local service?
A. I'm not sure. I don't -- all right. My statement -- not my statement.
I look -- to answer your question if you make an intercom call or four digit call and you pick up the phone and you do get dial tone, is that deemed to be local service or not, I, I would have to go back and look. I would have to go back and check.

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But I believe if that is the case, then so be it, it's local service. We are not providing it because we are paying for that. We do get billed by Bell and we pay our bills. All right.

I'm not giving you a roundabout answer, so if you want to rephrase the question we with go fron there.

Q. I thought I understood you to say well if it is local service, which you previously said it wasn't we are still not providing it. Is that what you are saying?

A. Yes.

(Pause)

Q. You said in an answer to one of your prior questions about the intercom service, you thought it was local service you need to check with somebody. Who would you need to check with?

A. I would go back and check with my telecommunications folks to make sure.

Q. And Mr. Pedro Garcia is one of your telecommunications folks, correct?

A. Yes, sir.

Q. In fact he heads that group that reports to you, correct?

A. Yes, sir.

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Q. So from a technical perspective you would agree with me that he has a little bit more knowledge, and I don't mean disrespect, as to the provision of service or what local service is or is not, correct?

A. Yes, sir.

MR. HOPE: Objection to form.

Q. And given that he has, again without any disrespect, more knowledge about what local service is or is not, can you tell me why he's not here today and you are, particularly in response to our requests that the corporate representative with the most knowledge of local service be present?

MR. HOPE: Objection to form.

A. When I got the fax and I looked at what it was requested I opted to come and do the deposition

Q. And that's fine and that was your decision. But you'd agree with me that, as we discussed, local service and the issues that are raised by the notice of taking deposition Mr. Garcia would have more knowledge than you, correct?

MR. HOPE: Objection to form.

A. Yes.

Q. Is there any reason that you are aware of that would have precluded his appearance at this

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deposition today?

A. No, sir.

Q. Was he available to come if you wanted him to?

A. I don't know.

Q. You never checked?

A. No, sir.

MR. GOLDBERG: Why don't we take a break now.

(Luncheon recess)

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IN THE CIRCUIT COURT OF THE 11th JUDICIAL CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION
CASE NO. 02-28688 CA 03

BELLSOUTH TELECOMMUNICATIONS, INC., a foreign corporation,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant.

VIDEOTAPE DEPOSITION
OF
MAURICE JENKINS

100 Southeast 2nd Street
Suite 1200
Miami, FL 33131

Thursday, August 5, 2004

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AFTERNOON SESSION
(1:40 p.m.)
BY MR. GOLDBERG
Q. Mr. Jenkins, are you ready to proceed with your deposition?
A. Yes, sir.
MR. GOLDBERG: Before we do so, I want to put our position on the record, the position which arises from the testimony that preceded the break we just took and the conversation I had with your attorney Mr. Hope as to this issue.
First, we believe that the testimony is very clear and makes clear for the court that the county has not produced the appropriate corporate representative in response to the notice of taking video deposition marked MJ1.
I believe Mr. Jenkins's testimony that Mr. Pedro Garcia has more knowledge than he does regarding local service and the aspects of local service that are identified in the notice of taking deposition warrants that Mr. Garcia be produced instead of Mr. Jenkins.
I have asked Mr. Hope during the break if he would agree to adjourn this deposition and substitute Mr. Garcia in Mr. Jenkins's place to

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proceed. Mr. Hope did not agree to that request.
Mr. Hope did represent that should we want to take Mr. Garcia's deposition on these issues we can notice his deposition again as an individual, not the corporate rep, and proceed with that deposition without objection from Mr. Hope.
Therefore, it is our position that we are going to proceed with this deposition of Mr. Jenkins, but we are going to do so without waiver of any of our arguments that we can make to the judge concerning the appropriateness of Mr. Jenkins being produced here today and also based on the representation made by Mr. Hope that notwithstanding how the judge rules on that issue, if we deem necessary we may take again the deposition of Mr. Garcia.
Mr. Hope, is there any comment you want to make with respect to that before we proceed?
MR. HOPE: Sure. The only comment that needs to be made is the county has produced the corporate representative pursuant to the notice of deposition.
As I did state to Mr. Goldberg, if indeed BellSouth wants to specifically notice Pedro

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Garcia for questions that are different from his previous deposition the county has no problems producing Pedro Garcia or any other person identified by BellSouth.
MR. GOLDBERG: Well, I want to make it clear and see if I understand your position.
Mr. Garcia was previously deposed. I have not read his transcript recently. But obviously he may have answered some questions concerning various services provided by the county. He may have testified about local service in response to a couple of questions, although I don't believe that was by any stretch the large majority of his deposition.
Is it your position that if he talked about local service at all that that would preclude our ability?
MR. HOPE: No, not at all. I just want to make sure that if indeed you notice Pedro Garcia to be redeposited, that the majority of the deposition be new questions and new material not previously covered as opposed to a rehash of his previous deposition.
MR. GOLDBERG: Fair enough.
BY MR. GOLDBERG

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Q. Mr. Jenkins, sorry about taking that break to put those issues on the record. Let me ask you before we get back into where we left off, I had asked you whether you had met with Mr. Hope prior to this deposition and your answer was no; is that correct?
A. Yes, sir.
Q. Did you ever speak to Mr. Hope about this deposition or the questions that may be asked of you or the answers that you may provide?
A. No, sir.
Q. You didn't speak to him on the phone regarding this deposition in any way, shape or form?
A. I spoke to him on the phone, not about questions. We spoke to the phone that this deposition was coming up. He asked me if we wanted to meet and I told him no, I didn't need to.
Q. Why did you feel you didn't need to meet?
A. I looked at what was being asked of within this request, which is MJ1, and I thought I can answer the questions that related to that.
Q. So you did not speak to him about the substance of this deposition at all, correct?
A. Yes, sir.
Q. Let me go back with you. You identified, we

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were talking about some of the equipment out at the airport that you own including the PBX and pathways, correct?
A. Yes, sir.
Q. We were also talking about how your customers at the airport get dial tone, correct?
A. Yes, sir.
Q. BellSouth, if BellSouth were to cut off or stop transmitting dial tone into your PBX, wouldn't you, meaning the airport, MDAD, still be able to provide dial tone, deliver dial tone to your customers at the airport?
MR. HOPE: Objection to form.
A. You're talking internally amongst ourselves, not going out to the outside? I'm not sure what your question is.
MR. GOLDBERG: I hate TO do this to you. Can you read it back.
(Question read by the court reporter)
A. I'm not sure.
Q. Who would be able to answer that question?
A. My management company who is managing our telecom infrastructure for us now. So anyone within Nextera, my voice folks, or some of my telecom folks that work for me.

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Q. To your knowledge would Mr. Pedro Garcia be able to answer that question?
A. Probably. I'm not sure.
Q. You don't think he would be able to answer that question?
A. I don't know. You have to ask Mr. Garcia. I don't know.
Q. Describe to me what happens technically from a technical perspective when one of your customers at the airport picks up their phone and wants to dial another customer at the airport.
A. Pick up the phone, dial 9 to get an outside line, and they dial the ten digits for the number that they are calling.
Q. Let me repeat my question because I think you misunderstood it.
Describe to me from a technical perspective, and in your description and explanation I want you to reference what equipment is utilized, but describe for me from a technical perspective exactly what happens when an MDAD customer at the airport picks up the phone and wants to dial another MDAD customer at the airport.
A. Said individual picks up the hand set and -- there we go again.

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MDAD customer picks up the phone, you get a tone and you subsequently dial the number. The number that you dial, if it is an internal aviation department to aviation department that has four digit dialing, or customer to customer that has four digit dialing, that tone -- well, let's do this again.
From the hand set you dial the number, goes to the PBX, that addresses the extension that you want to go to, and subsequently it rings on the other end. So that then creates that connection to have that discussion.
Q. You say the person picks up the phone. There is a dial tone there?
A. Yes, sir. Well, there's a tone -- you have a tone, yes.
Q. Is there any other tone besides a dial tone that you could hear when you pick up the phone?
A. No.
Q. So then the answer to the question is yes, there's a dial tone there, right?
A. Yes, sir.
Q. Customer picks up the phone, hears the dial tone. That dial tone comes from your PBX that you own, correct?
MR. HOPE: Objection to form.

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A. No, sir. It comes from our provider which is your client. Dial tone is provided -- dial tone is not provided by the department. I do not provide dial tone.
A. For local service --
Q. And the basis for your statement -- I want you to identify all the facts that you are aware of that support your statement that MDAD, the county, the airport, does not provide or deliver dial tone to its own customers.
A. Sorry to trouble you again one last time, if you can read that back.
(Question read by the court reporter)
MR. HOPE: Objection to form.
A. The department provides a common infrastructure by which these signals are passed through that allows one entity to communicate via a hand set to another. Now, in order to be able to do that dial tone is required to provide that service. We do not provide dial tone for local service.
Q. Yet you say that, but you can't answer the question that even if BellSouth were to cut off the dial tone that comes in you don't know whether you could provide or deliver dial tone to your customers?
MR. HOPE: Objection to form.

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A. Based upon our internal PBX no, I can't answer that question. I'm not sure. I'd have to check.
Q. If the answer to that question were yes, even if BellSouth were to turn off the dial tone that comes into your PBX and you could still provide an deliver dial tone to your customers, wouldn't that undercut and completely erase your position that yo are not providing or delivering dial tone to your own customers?
MR. HOPE: Objection to form.
A. I would say no. Our customers within the aviation department, you deem that my customers, tl business they conduct require them to get access to communicate to their main offices and the outside world. If I don't, dial tone being provided by BellSouth or any other telco provider then they cannot conduct their business outside of the facility.
Q. You were equating, were you not, dial tone with local service, correct?
A. I was equating dial tone with local service -- well, it goes back to the question, you posed the question to me before whether internal fou digit dialing and I had dial tone was that considered

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dial tone or not and I told you I did not know. So I don't know.
Q. Customer picks up, one of your customers at the airport, MDAD customer picks up their phone, ha a dial tone and dials a four digit call.
That call goes to your PBX, correct?
A. Yes, sir.
Q. And then it gets rerouted to another one of your customers, MDAD's customers, correct?
A. Well, it's a combination yes and no. I'm not sure what goes on in the back office. So I can go back and check.
At the ticket counters right now with the phones that we have put in you can do four digit dialing from one ticket counter to the next, so yes.
Customer to customer you can do that with communications. In the back offices, whether the customer is using, if one customer is using us going through our PBX and another customer isn't, then you cannot, the routing process is different. You are going to have to go out to come back in.
Q. Do you know the answer to the question I asked, or are you speculating?
A. I'm not speculating, I'm trying to answer your question based on the question you asked unless

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I am missing something.
MR. GOLDBERG: Can you read back the prior question.
(Question read by the court reporter)
Q. Yes or no?
A. Yes.
Q. In that situation, you would agree with me, would you not, that there is no access to BellSouth's network or equipment at all, correct?
MR. HOPE: Objection to form.
A. I would say yes.
Q. What happens technically in a situation where an MDAD customer picks up the phone, has dia tone, and places a ten digit call to Coral Gables, how does that occur from a technical perspective?
A. From the hand set you dial 9 to get an outside line, you dial the 10 digit number, it goes from the PBX through Bell's switch room, and from there it goes to the outside to connect to the individual that person is calling. That's it.
Q. Let me ask you this question. And the question is limited to MDAD customers at the airport.
For MDAD customers at the airport, if the county did not own its PBX and its pathways and we are not in the business that its in how would the

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customers get dial tone?
MR. HOPE: Objection to form.
A. They would call, contact BellSouth, request service and Bell would come in, survey location, determine whether they have service at said location. If not BellSouth would be required to run whatever hardware is required to get service to that customer facility.
Q. And that would all be using BellSouth's equipment, correct?
A. Yes, sir.
Q. But for MDAD's customers that currently exist, they are getting telecommunications service because you own the equipment and facility, correct?
MR. HOPE: Objection to form.
A. Yes, sir.
Q. So it must be true that if the county didn't own its telecommunications facility and equipment, it's current MDAD customers would not have telephon service unless they went to some other telecommunications company, correct?
MR. HOPE: Objection to form.
A. Yes.
Q. Are all local calls made by MDAD customers routed through MDAD's switch?

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A. Yes.
Q. Absent routing through MDAD's switch, isn't it true that MDAD's customers would not have a dial tone?
A. Yes.
Q. And absent routing over a pathway belonging to MDAD that's emanating from MDAD's switch to an MDAD customer, the MDAD customer would not have di tone, isn't that correct?
MR. HOPE: Objection to form.
A. Yes.
Q. Does MDAD as part of the service it provides as a telecommunications facility, don't you have the ability to assign telephone numbers to your customers?
MR. HOPE: Objection to form.
A. Yes.
Q. What happens technically if a BellSouth customer in Hialeah wants to call one of your customers, MDAD's customers at the airport?
A. They dial their ten digit number of the customer themselves, because it comes into BellSouth's demarcation which I think there's 300X room, and from there to our PBX, and then it gets routed to the customer extension to the number that

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they are dialing.
Q. What exactly technically does your PBX do once it gets that call into that piece of equipment? There's a number of things that happen, isn't it, that are solely within your control?
MR. HOPE: Objection to form.
A. Yes.
Q. Can you explain what happens for the court and for this case when that call comes in to your particular piece of equipment, the PBX?
A. Call comes in, we verify that you are dialing an extension or a number that does exist, and if it does exist it gets routed to that location.
If that location doesn't pick up or depends on what we put on it, it can go to voice mail. We allow that call to be routed somewhere else to insure that it gets picked up.
Q. Maybe we are saying the same thing, but see if you would agree with me.
Once that call comes into your PBX, doesn't your PBX in essence interpret that telephone numbei and translate that telephone number so that you then, your equipment redirects that telephone call to the specific facility and specific phone at your customer's office?

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MR. HOPE: Objection to form.
A. Yes, sir.
Q. There's no dispute about that, right?
A. Yes, sir.
Q. In the documents that we have reviewed in this case including the airport rental agreement, that's the terminal rental agreement, it states that the county provides a number of telecommunication service.
One service is called switch access, switch access; is that correct?
A. I believe so, yes.
Q. Can you explain what switch access is?
A. In it's clear definition, no, sir, I cannot.
Q. Why can't you?
A. I don't have a clear definition or exact definition to give you as to what switch access is.
Q. Who would be able to provide that answer fo us?
A. The majority of the folks working at my telecom unit or my telco provider -- not the telco provider, the guys that manage the PBX within Nextera.
Q. Obviously Nextera is a separate entity from the county, correct, they are a separate corporation?

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A. Yes, sir.
Q. So with respect to your telecom group again, Pedro Garcia is the head of that telecom group, correct?
A. Yes.
Q. So he would be able to answer that question, correct?
A. It's a possibility.
Q. Would you be concerned if he couldn't answe what switch access is?
A. Not necessarily.
Q. No? Can you describe for us what network access is?
A. The ability for any of our users who utilize our network services to be able to complete a function, to be able to get connectivity to go from point A to point B.
Q. When it refers to network access what network are you referring to?
A. The aviation department network. Our physical data network.
Q. Is that the PBX?
A. No, sir.
Q. What is it then if it's not the PBX?
A. PBX covers voice. We have a voice and a

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data convergence. But the network itself is our physical data network that we have, that connection service and workstations to allow them to have access ability to functions and services.

Q. What allows your customer to have voice service? Is it switch access or network access?

A. If the switch is the switch that connects to the PBX it would be switch access.

Q. But you are not sure about that?

A. Not a hundred percent, no.

Q. So the local calls we have been talking about in this deposition, the ones that are internal to the airport or the ones that go to Hialeah or Coral Gables in my examples, you are not sure whether that involves switch access or network access, is that correct?

MR. HOPE: Objection to form.

Q. Let me rephrase it. You are not, finish the end of the question, you are not sure whether that involves switch access?

A. I believe it does but I'm not a hundred percent sure. The network access, as my original statement, is for our data network.

Q. Are you familiar with the term single line local access?

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A. I can't say that I am.

Q. Have you ever seen that term used in any documents at the airport, single line local access?

A. Possibility. Can't recall.

Q. You can't tell me what it means or what it denotes as we sit here today?

A. No, sir.

Q. Let me hand you what we'll mark as MJ8 and for the record this is the airport rental agreement and its associated exhibits. I shouldn't say exhibits. Attachments or schedules.

(Airport rental agreement marked Exhibit MJ 8 for identification).

Q. Let me direct your attention when you are done looking at the document to the first paragraph. I am going to read a portion of that paragraph to you.

It says "The county agrees to deliver install, rent and maintain telecommunications systems and services consisting of, one, switch access to its common telecommunications switching equipment and software which will be shared by the Miami-Dade Aviation Department and its tenants at the airport, 'unquote switch access' and, two, network access to the local telephone exchange carrier, 'network

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access.'"

Going back, I know you answered some questions before about network access. Let me just be more clear. Can you explain to me what two means network access to the local telephone exchange carrier?

A. We have a network switch or -- I have to look at the -- it has to do with the configuration of how our PBX and how or voice, what we could define as, we have a voice network -- haven't read this document in a while -- what we deem to be a voice network and via that network from what I am seeing is what we use to get access to local exchange, to get out.

So our statement to you when you asked me originally when you asked me what network access wa because with this rental agreement we also provide network access, so I look at it as data, not voice. So I guess it is a misstatement that I made.

But go ahead.

Q. Can you clarify what the misstatement is that you made so the record is clear?

A. My interpretation, when you asked me network access, this rental agreement determines what we provide data network access to our customers, those

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that may need network providing or accessibility to the networks or applications or things of that nature we also provide.

So when you said network access my focal point was on the data within apparently that we do have and I never looked at it that way that there is a voice network that's also what they deem to be a network or my telco guys use as being a network as well.

Q. It does say network access to local telephone exchange carrier. So having shown you this document I would like you to explain to me technically how this network access works. What exactly is the service that's provided? Can you answer that question?

A. No, sir, I cannot.

Q. Would Mr. Garcia, Pedro Garcia be able to answer that question?

A. Probably so.

Q. You say you haven't seen this airport rental agreement in some time. How long has it been?

A. Not sure. I believe it might have been revised. But I can't tell you the last time I've seen it to read the document itself. I'm not sure, sir.

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Q. Isn't this the blood and guts of your telecommunications business at the airport?
MR. HOPE: Objection to form.
A. It is the revised document. Well, it's a document that we use to establish customer agreements.
Q. Isn't that your business?
MR. HOPE: Objection to form.
A. What's -- what is my business? I'm sorry.
Q. Isn't that how you make money, by entering into these agreements with customers at the airport so they will pay you for your telecommunications service?
MR. HOPE: Objection to form.
A. Yes, sir.
Q. Isn't this a critical document in your business?
A. Yes.
Q. How is it that you are not able in your position to identify for me and explain to me one of the basic, one of the three basic services provided by MDAD to your own customers?
MR. HOPE: Objection to form.
A. I have staff who has a responsibility for reviewing, crafting and conveying back to me conte

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that is applicable. That's what staff is for.
Q. Don't you supervise your staff?
A. Yes, sir.
Q. And as part of your supervision of your staff shouldn't you know what they do on a day-to-da basis and what basic services are providing to your customers?
MR. HOPE: Objection to form.
A. I know what my staff does, yes.
Q. I'm asking about your knowledge. Shouldn't you know about the basic services that your staff and your telecommunications business provides to your customers each and every day?
MR. HOPE: Objection to form.
A. I -- no. I'm not on top of my staff each and every day. Their job is to go out and provide and do their due diligence each and every day. So I am not on top of my staff every day.
Q. You'd agree with me just from the face of the document, not asking you about any other knowledge you may or may not have, but you'd agree with me that the purpose of this airport rental agreement is to have your customers pay you for switch access, network access and what is also termed here telecommunication terminal equipment, et cetera,

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which is outlined on Exhibit 1?
MR. HOPE: Objection to form.
A. Yes.
Q. So is it fair to say because you cannot detail for us, and again I say this with respect, you cannot detail for us here today any of the basic services that are provided, you would also not be able to tell us what exactly the customer is paying for or not paying for, correct?
MR. HOPE: Objection to form.
A. Yes.
Q. Stated another way, you would agree that yo can't tell us here today what a customer is being charged for or not being charged for, correct?
MR. HOPE: Objection to form.
A. No, incorrect.
Q. So you can't tell me what they are paying but you can tell me what they are being charged for
A. I can tell you what's, not a hundred percent what's entailed in their bills because I don't write their bills. I don't know exactly -- I don't look at invoices and I don't issue bills, so.
Q. You don't do invoices and don't do bills?
A. I don't do than invoices and I don't do bills.

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Q. Because you have staff that does it?
A. Yes, sir.
Q. But you'd agree with me that under this agreement you are charging, you were charging you customers for switch access and network access, and because you can't detail for us what switch access is or network access is you can't testify under oath today what exactly they are being charged for or not charged for, you'd agree with that, correct?
MR. HOPE: Objection to form.
A. Yes.
MR. GOLDBERG: Take a break.
(Recess in the proceedings)
BY MR. GOLDBERG
Q. Mr. Jenkins, are you ready to continue with your deposition?
A. Yes, sir.
Q. Thank you. Can you explain to me what -- strike that.
Does MDAD, the county or the airport partition its trunks?
MR. HOPE: Objection to form.
Q. Do you understand my question?
A. Yes, we do.
Q. Now, before I get into your answer that yes,

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you do partition trunks, can you explain technically to the court and us here at this deposition what partitioning trunks means?

A. Simplest analogy is you have a pipe -- not a pipe, you have a series of cables that are available for utilization. If the utilization is not that great you do not need all of those cables so to speak, by which then you are allowed to allow multiple points of access to a particular cable to utilize said service.

How can I get into the layman's discussions --

Q. Would drawing a diagram help?

A. Yes. I can show it to you and then you can send it back.

Q. I will give you yellow sheet of paper and you have a pen if that will help you explain it.

A. If you look at it that you have this pipe that sits here and I have, call it four users who need to have access to the PBX or the phone system Not all have or require a hundred percent access all the time to said system.

So what we do is consolidate into one smaller pipe the ability for these four to have access knowing that they all will not be utilizing

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the system at the same time. So it gives us more -- some more flexibility and doesn't cost as much.

Q. On this diagram just that you are writing you have a rectangle, a long rectangle. Does that represent the PBX?

A. Yes, sir.

Q. Can you just write PBX inside there so we are clear. And the four squares, they represent customers?

A. No, this he would be hand sets.

Q. Telephones you mean?

A. Yes.

Q. Write down "hand sets". That would be great.

And then the smaller column that you drew, is that the partition? What would you call that?

A. Yes, I refer that to being I say the partition based upon your question of how we would instead of utilizing the whole piece it's a portion thereof to give you the same functionality.

MR. GOLDBERG: I am going to mark this as MJ9.

(Diagram marked Exhibit MJ9 for identification)

Q. What benefit does partitioning trunks have

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for you, MDAD?

A. **It's more manageability** and cost savings, I guess **if you look at it that way.**

Q. **When did you first partition** trunks? Let me put it in context.

We know that on January 29, 2002, approximately, the county purchased all the assets and equipment from Nextera. Were the trunks partitions at the time that the county made that purchase?

A. I don't know.

Q. We any trunks at the airport first -- when **were any trunks at the airport first partitioned?**

A. I'm sorry.

Q. Sorry. Let me rephrase it. When were any **trunks at the airport first partitioned?**

A. **I'm not sure. I have not made any changes** except for software upgrades to our PBX. We have nc made any changes in a while, so.

Q. **Are there certain trunks that are** partitioned and certain trunks that are not partitioned at the airport?

A. I don't know.

Q. Who would know that?

A. Anyone that's within my voice services,

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either my Nextera folks or other individuals that work in my telecommunications unit.

Q. **And you'd agree that Mr. Pedro Garcia** woul know **that answer?**

A. I would say so, yes.

Q. Would he also -- strike that.

Do you know why the trunks were partitioned at the airport?

A. No, sir.

Q. Are you aware of any documentation that we could look at that would explain why trunks were partitioned at the airport?

A. Not that I'm aware of.

Q. How do you know for a certainty that trunks are partitioned at the airport?

A. I believe it's been mentioned in I guess one of my telecom meetings, I believe the discussion ha: come up once or twice.

Q. So you are just relating it from a discussion or two that you had at a meeting with staff?

A. Yes, sir.

Q. You haven't been actively involved in any endeavor that you had to actually deal with partitioning or not partitioning trunks at the

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airport, is that correct?
MR. HOPE: Objection, form.
A. Yes, sir.
Q. Do you know whether the trunks had been partitioned at the airport based on the type of customer that those trunks go to?
A. I can't answer that question.
Q. Would Mr. Garcia be able to answer that question?
A. Probably so.
Q. Can you explain the reasons why you may partition trunks for one type of customer at the airport and not another?
A. No, I can't.
Q. How would we determine for a fact that the trunks, any trunks are actually partitioned at the airport, aside from relying on your statement here today?
A. You could look at our design drawings, our PBX diagrams, how our PBX is configured to determin whether we have actually done that or not and discussions with staff.
Q. The design diagrams, which group that reports to you would those design diagrams be found in?

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A. Nextera.
Q. Nextera. They are not a group that reports to you, are they?
A. Well, I manage them, yes. They report to me.
Q. And Nextera is, you have entered into an agreement, just so we get it on the record, correct me if I am wrong, you have entered into an agreemer with Nextera to manage your telecommunications facility at the airport, correct?
A. Yes.
MR. HOPE: Objection to form.
Q. Who does Nextera directly report to, is it you day-to-day or is it somebody else who reports to you?
MR. HOPE: Objection to form.
A. It's a combination, but primarily it's someone else on day-to-day activities.
Q. Would that person be Mr. Pedro Garcia?
A. Yes, sir.
Q. Let me show you what I am going to mark as Exhibit as MJ10 and MJ11.
(Customer lists marked Exhibits MJ10 and MJ11 for identification)
Q. Let's take a look at MJ11 first. It's on

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your left.
A. OK.
Q. Have you seen that document before?
A. Yes, I have.
Q. Is it correct that as of February 7, 2002 this roughly depicts customers, MDAD customers who were receiving telecommunications service at the airport?
MR. HOPE: Objection to form.
A. Yes, sir.
Q. Let me ask you the same question about MJ10. Does that accurately depict your customer list as of February, 2003, about a year later?
A. Yes, sir.
Q. Since February of 2003 when MJ10 was produced, would it be accurate to say that the number of customers has increased or decreased?
A. From March of '03 I believe we lost some customers.
Q. Have you gained some?
A. It's possible --
Q. Before I even ask that I should ask, do you have enough knowledge to answer those questions?
A. Yes, I do.
Q. So have you gained some as well as lost

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some?
A. I believe we have gained some as well as lost some.
Q. At the present time can you tell me how many customers you have at the airport?
A. Exact number, no, I cannot.
Q. How about approximate number?
MR. HOPE: Objection, privileged as we stated earlier. Instruct deponent not to answer.
As we brought up earlier, you asked the same question in terms of quantity and our position is that you can talk about provision of services and do we have customers, but I know that certain documents you already have and I can't stop that now, but in terms of specific customers and what we do and total number of customers that is something that's privileged.
MR. GOLDBERG: The number of customers is privileged?
MR. HOPE: Yes. What would give you anything that you need in terms of knowing the number of our customers?
MR. GOLDBERG: I just want to make it clear. You are instructing him not to answer about the number of customers?

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MR. HOPE: Correct, which is what I instructed earlier.
Q. It's fair to say that all the customers listed on MJ10, Mr. Jenkins, pay for your telecommunications service, correct?
MR. HOPE: Objection, form.
A. Yes.
Q. There's no question that having these customers benefits the county financially, correct?
A. There's some benefit, yes.
Q. There's some benefit?
A. Yes, sir.
Q. Let me show you what I am going to mark as MJ12 and 13, two photographs.
(Photographs marked Exhibits MJ12 and 13 fc identification)
Q. MJ12 is a picture of Cafe Versaille, correct?
A. Yes, sir.
Q. That's one of the customers listed, one of your customers listed on MJ10, that's correct? I am pointing to it here.
A. Yes, sir.
Q. MJ13 -- by the way, are there a number of Cafe Versailles in the airport?

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A. I believe there are two. Maybe more.
Q. Just for the record, because people may read this or see this videotape and don't know what Caf Versaille is. Can you explain what it is?
A. It's a concession within the airport that provides coffee, Danish, pastries.
Q. MJ13 depicts a Bacardi shop, correct, or store where you can by Bacardi liquor?
A. It is a restaurant/bar type, yes.
Q. It's in the business of selling liquor, is that correct, and food?
A. Yes, sir.
Q. Do you know whether Bacardi is currently a MDAD customer?
MR. HOPE: Objection. Instruct the deponen not to answer.
Q. Let's assume since you have been instructed not to answer that question I'll ask you to assume that they are a customer, they are out at the airport.
Again I go back to my question: Having Caf Versaille and potentially Bacardi as clients at the airport, the purpose is, is it not, to derive income, revenue from them in return for your provision of telecommunications service?

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MR. HOPE: Objection to form.
A. Yes.
Q. Is there any other benefit that they provide the airport as a customer other than financial?
MR. HOPE: Objection to form.
A. I'm sorry, you got to repeat that one.
Q. Sure. Other than providing you with revenue and increasing the money that you make off of the telecommunications business, is there any other benefit that they provide MDAD?
A. These entities?
Q. Yes.
A. They provide the customers with a product. The customer, the traveling public gets a benefit from these entities.
Q. Fair enough. The customers who purchase food or drinks?
A. Food, pastries, coffee, yes, sir.
Q. But does that provide the airport with a benefit? Does the airport receive any other benefit from having these shops there? No, right?
MR. HOPE: Objection to form.
A. The benefit to the airport is if we bring quality products to the airport our customers who travel through MIA will choose MIA in comparison to

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Fort Lauderdale or anywhere else. It is a branding of product a product and service.
Q. So it is a marketing tool as well I guess? I don't want to put words in your mouth, but you are essentially saying if you have quality shops you are hoping you will get more passengers, is that the --
A. Yes, sir.
Q. Any other benefit?
A. No, sir.
Q. Are there any studies that you have reviewed or come across that say if you have quality stores you'll get more traffic, they will choose Miami over Fort Lauderdale as you said?
A. I don't, I don't have studies and I haven't done anything. But we have a commercial ops division that you can speak with. Their goal is to bring quality merchandise, quality products to the facility to give us what we need to be a world class facility.
And the traveling public, I think they have done -- not "they have" but industry has done studies or surveys as to what the traveling public wants to see when they go through a facility, like Miami International Airport and as it is compared to Atlanta, Jacksonville, Tampa, Houston, DFW, anywher else for that matter.

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Q. You would agree that having a Bacardi shop or have a Cafe Versaille doesn't make the airport a safer place to be, though it may bring more people but doesn't make it a safer place; you have to rely on security or other measures, correct?
MR. HOPE: Objection to form.
A. Yes, sir.
Q. And you also agree that having a Bacardi shop or Cafe Versaille or any of the other concessions stands, concessions on these lists doesn't help move freight or passengers more efficiently through your airport, correct?
MR. HOPE: Objection to form.
Q. Except get more passengers there?
A. Yes, sir.
Q. Let me ask you this. If John Q Public wanted to come into your airport and purchase Caf Versaille how would John Q Public go ahead and purchase that concession technically, do you know
A. For John Q Public to purchase Cafe Versaill has nothing to do with the airport. For John Q Public to purchase Cafe Versaille you need to deal with the enterprise or the entity that owns those rights.
Cafe Versaille I think is owned by La

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Caretta, the parent company, so you need to deal wit them as a franchise or operation.
If you want to perform a service or sell a product within the airport you contact our commerci operations folks and you talk to them that you are willing, you are looking to do business within the airport and they tell you where you need to apply, what the airport is looking for, and you, whatever comes up to bid you bid on.
So there's a formal process nothing having to do anything with the --
Q. With your operation?
A. With my operation. They can do whatever they want to do.
Q. But I guess I am trying to understand, if John Q Public wanted to come in and let's say go to La Caretta --
A. I think La Caretta is the parent company. They are both owned by the same parent company.
Q. They would have to go to the parent company and say basically I want to buy you out of your airport space at the Miami Airport, correct, and let's say the answer from the parent company was fine, are there any other licenses or permits that somebody needs to go in and lease this space?

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A. That's out of my bailiwick. That's entirely within commercial operations.
There's a process by which is required to build out, permits, contracts have to be entered into before you can even start doing business. And then what the rental rate would be and what the pay back to the department would be in regards to utilizing that space.
Q. You said that's totally out of your bailiwick. Whose bailiwick is it in?
A. It belongs to property and operations. There's a commercial unit within the division, within the department that's responsible for bringing in business as well as managing or maintaining what these guys deem to be our customers and what they provide and what they do.
Q. But the details of how John Q Public gets in there is something you don't feel comfortable from a knowledge base answering, is that fair to say?
A. Yes, sir.
Q. So then I'll move on and ask you this. At least you'd agree with the general proposition, would you not, that John Q Public if he meets all, goes through the hoops and meets the requirements he can come in and operate a concession or a store at the

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airport, right?
MR. HOPE: Objection to form.
A. As long as he's complied and submitted his bid and he's awarded and approved, yes, he can.
Q. And that bid process as far as you know is at least open to the public, right, anybody who wants to bid?
A. Yes, sir.
Q. There's no discrimination or anything along those linings, anyone that wants to bid can bid?
A. Yes, sir, as long as you meet the minimum qualifications or whatever qualifications are established that goes out with the bid.
Q. Let's assume John Q Public takes over Cafe Versaille. They are going to be able to purchase your telecommunications services, correct?
A. If they want to, it's entirely up to them.
Q. But if they want to your services are available to John Q Public, correct?
A. Yes, sir.
Q. And if John Q Public wants to obtain telecommunications service from you at the airport John Q Public is going to enter into one of these rental agreements that we discussed earlier, correct?
A. Yes, sir.

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Q. And then John Q Public is going to pay for that telecommunications service, correct?
A. Yes, sir.
Q. And that telecommunications service that you offer that we discussed before includes two way communication capabilities, correct?
MR. HOPE: Objection to form.
A. Yes, sir.
Q. Let me mark a couple of more of these because I have another follow-up question. I am going to mark MJ14, MJ15, MJ16, MJ17, MJ18, MJ19, MJ20, MJ21, MJ22. Let me show you what I have marked as Exhibits MJ14 through and including MJ22 and just have you take a look at those photographs.
(Series of photographs marked Exhibits MJ14 through MJ22 for identification)
A. OK.
Q. Are those, as far as you can tell, accurate depictions of various stores and/or services as they presently exist at the Miami Airport?
A. Yes, sir.
Q. And I am just going to walk through them real quickly if you don't mind me looking over your shoulder just to put them on the record because the record can't see the pictures.

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Correct me if I am wrong as I walk through these. MJ12 is Cafe Versaille, MJ13 is Bacardi, MJ14 is?
A. They are both the same --
Q. Eddy's ice cream. MJ15 shows Eddy's Ice Cream as well, Hebrew National hot dogs. MJ16 is duty free stop.
MJ17 is TCBY and Cinnabon. MJ18 is Bacardi, a Burger King and Frankly Gourmet. MJ19 is Sunglass Hut. MJ20 is the company you mentioned before, Cafe La Caretta?
A. Right.
Q. MJ21 is basically a mall of shops, correct?
A. Yes, sir.
Q. And the mall of shops includes Barber Beauty and Nails, a Kleen cleaners --
A. No, that's a shoe shine.
Q. I'm sorry, shoe cleaner?
A. And then the ice cream place.
Q. Yes.
A. You didn't mention this one.
Q. MJ22 is a leather store?
A. Yes, sir.
MR. GOLDBERG: Showing his counsel where he can go shopping.

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Q. That leads me to the next question. There is nothing that prevents Mr. Hope here or John Q Public or anybody else from going into the Miami International Airport to these mall of shops or any of the other stores that we have depicted here in the photographs, purchasing their product, using their services and then leaving without taking a flight or booking a flight or traveling anywhere?
A. Right.
MR. HOPE: Objection to form.
Q. There's no dispute about that, they can walk in, do those things and walk out without traveling?
A. Yeah, if they want to.
Q. And there's also no dispute, although your counsel is telling you not to answer certain questions, but there is no dispute that you are providing service to some or all of those shops or those type of shops at the airport, correct?
MR. HOPE: Objection to form.
A. Yes, sir.
Q. Can you tell me what the county, or MDAD, or the airport exactly pay for to provide either switch access or network access as those terms are used in the airport rental agreement?
MR. HOPE: Objection to form.

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A. What we actually pay for?
Q. Yes. What costs are involved in providing those services to your customers.
A. What costs are provided, I'm not sure I understand the question.
Q. OK. Obviously you charge your customers for the telecommunications service, correct? We established that. That's not an issue, is it?
MR. HOPE: Let me stop you there. I am going to object. If you are now going to try and get an itemization of the specific costs that the airport incurs and then at some point, which I think this is something that you asked before and you might be able to get a hold of the rental agreements, which shows what we charge, then you can come up with our profit margins, which you are not entitled to.
Just like when we requested specific request from BellSouth and you said you are not going to turn them over because it is internal to your rates of return, that would be the same thing.
So unless you can show why you need specific cost information or specific costs that we incur like what BellSouth charges us this whole line of questioning is inappropriate and privileged and I am

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instructing the deponent not to answer.
MR. GOLDBERG: So just so the record is clear, you instructed him not to answer that last question?
MR. HOPE: Correct. Unless you can show to me --
MR. GOLDBERG: It doesn't matter what I show. Your instruction needs to stand or doesn't stand. That's how it works.
MR. HOPE: I understand how it works.
Q. I am going to show you once again and let me follow up with, I will show you what has been marked as MJ6 which is the response to interrogatories again and again point you if I can to the response under number 3. I am going to borrow Ms. Liebman's copy please. Thank you.
In the middle of the second paragraph there's a sentence there that says as follows "MDAD does not charge MDAD tenants for local service." Can you explain that to me please?
A. The cost or whatever is incurred that's passed to us from BellSouth, the charge for having local service provision, we pass that cost directly back to the tenant. We do not mark that up.
Q. All right. So isn't it a fact then that you

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are charging MDAD tenants for local service, correc albeit without a markup, correct?
MR. HOPE: Objection to form.
A. It's a yes or no, I can't say it's yes. The cost that we incur that is passed to us from Bell we pass it to the customer directly to pay the bill.
Q. Aren't you charging the customer for that cost, according to you?
A. We are -- the cost that we incur is what's being passed to the customer to pay without markup
Q. What is difficult about my question? Strike that.
Are you not then charging your customer for that local service? Yes-or-no question. Please answer the question.
MR. HOPE: Objection to form.
A. Yes.
Q. Thank you. Therefore, the statement in this interrogatory response is incorrect and not true, correct?
MR. HOPE: Objection to form.
A. I'm reading this.
Q. Mr. Jenkins, take your time.
A. Go ahead and restate your question please. Read it back.

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MR. GOLDBERG: Please.
(Question read by the court reporter)
MR. HOPE: Objection to form.
A. No, it's not correct.
Q. The statement in the interrogatory response that you signed under oath verifying it that it was true is in fact not true, correct?
MR. HOPE: Objection to form.
A. I'm not sure how that question reads. My statement that I signed under oath states that we do not charge tenants for local service.
Q. Is that a true or not-true statement?
A. It is a true statement.
Q. So it is your testimony today that MDAD does not charge MDAD tenants for local service, is that what you are saying?
A. Yes, sir, I don't charge them for local service.
Q. And you don't believe that conflicts with your testimony not less than 90 seconds ago?
A. Which my statement was that the cost that is passed to us from BellSouth is what the customer pays without any markup from the department.
Q. But you are still charging your clients a sum of money for local service, correct?

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MR. HOPE: Objection to form.
A. I am charging them for costs that are incurred by our dial tone provider.
Q. So therefore you are charging them for local service?
A. I am charging -- I am issuing a bill to a customer for costs that were incurred -- that is incurred by the department by our local provider.
Q. We will talk about amounts on the charge in a minute. So let's separate amounts out.
First let's deal with the basic understanding that you are charging MDAD tenants for local service. Whether or not that amount is your cost or some markup is a separate question we'll talk about in a second. But I want to make it very clear that you are charging MDAD tenants for local service. That is a correct statement, right?
MR. HOPE: Objection to form.
A. If that's what you feel to be correct. I don't think I'm charging my customers for local service. I'm not a provider of local service. I'm not providing customers with local service.
Q. Just accepting for a second what you say, you would then agree that at least you are charging your customers for local service at your cost?

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MR. HOPE: Objection to form.
Q. Correct?
A. It sounds right.
Q. Want to make sure it is right. Do you want to think about it some sore?
A. No, it sounds right, so, yes.
Q. It is right, correct?
A. Yes, sir.
Q. When MDAD charges an MDAD customer for loca service at your cost, where does that show up on your customer's bill?
MR. HOPE: Objection to form.
A. I don't know.
Q. Who would know that?
A. Our financial department and Nextera, who generates the invoices.
Q. How is the cost of local service allocated to your customers?
A. How is the cost allocated? I'm not sure.
Q. Would Mr. Garcia know that?
A. I'm not sure. It's a possibility.
Q. How do you know that the charge you are -- strike that.
How do you know that what you are charging your customers is actually at cost and includes no

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markup? How do you know that?
A. I don't know that for a hundred percent.
Q. I didn't hear you. I'm sorry?
A. I said I do not know that for a hundred percent. But since we are not providing or selling telco services we do not, the staff would go ahead and reverify that back to me in discussions.
But we do not mark up costs incurred for dial tone or local services, or long distance services for that matter.
Q. But again my question is, and maybe I misheard you, are you saying you don't know for a fact that there's no markup associated with the charge for local service?
A. I don't know that a hundred percent for a fact, right.
Q. Did you say for a hundred percent or a hundred percent?
A. I do not that for a hundred percent to be factual.
Q. So therefore you wouldn't be comfortable testifying to such under oath, is that correct?
A. At this time, yes.
Q. How long do you believe MDAD has not charged -- strike that, MDAD has charged its client

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for local service only at cost if in fact that is what is happening?
MR. HOPE: Objection to form.
A. I would believe should have been since its inception of creating STS, but I don't know that to be a hundred percent factual. I have to check the invoices.
Q. In January of 2002, I should say since January of 2002?
A. There should not be any markup, but unless I look at an invoice what the actual bills were I couldn't answer that question a hundred percent, no.
Q. Pricing to customers, how much you charge customers for various services, who makes the decisions on that in your entity?
A. Currently we look at the industry -- the current charges or current costs that are assessed to date are based on the assessments or charges that we have used in the past or that were used in the past. So they were established by our service provider when I first came on board.
Q. OK. As we sit here today, though, as we sit here today who makes the final decision as to how much you are going to charge a customer for this local service, whether it be cost or not, call

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forwarding, voice mail, network access, switch access? Who makes that decision, final decision?
MR. HOPE: Objection to form.
Q. Is that you?
MR. HOPE: Objection to form.
A. It's the department. I would say the recommendation cost allocations would come from our provider.
Q. I'm not talking about cost allocations. I am talking about charges that you bill your customer.
A. Those are cost allocations.
Q. Maybe I misunderstood your word. OK.
Now, if you want to use cost allocations that suggests, just want to ask you rightly or wrongly, that suggests that you are doing nothing more than passing the cost of doing business on to your customers without any allocation for profit. Is that true?
MR. HOPE: Objection to form.
A. No.
Q. OK. So the term cost allocation is a bit misleading, correct?
MR. HOPE: Objection to form.
A. I don't see how that's misleading, no.
Q. You don't see how calling what you charge

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your customers cost allocations is not misleading because it would tend to have a reasonable prudent person in the public conclude that you are not makin any profit off of your business?
MR. HOPE: Objection to form.
A. I didn't say I wasn't making a profit off of my business.
Q. So why do you hesitate or sort of contest my use of the word charge? What are you charging you clients for these services?
MR. HOPE: Objection to form.
Q. Do you contest the use of the word charge?
A. No, sir.
Q. OK. Let's go back to my question. Who determines at the airport, and tell me if it is you or somebody else, what you all typically charge you customer for the various services that get provided including local service, switch access, and the like?
A. As I stated before, we are still operating based upon a pricing structure that was established some seven, ten years ago. We have not modified o changed that. We are looking at that. So it hasn't been changed.
So when those pricing structures or cost allocations or whatever you want to put to it was

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established the department has not changed from that pricing model or structure. So it's been there and was approved. So if you want to go back and pose that question --
Q. Who approved it?
A. The previous director at the time who was probably maybe Rick Elder, who knows, that approved the contract when it was first put in place based upon the existing pricing model would have been it. But it has not been changed since then. And we are looking at that now.
Q. And if you look at that now and there's a change that you want to make, would you be the final person who makes that decision as to the change?
A. No, sir.
Q. Who would that be?
A. The board of county commissioners.
Q. MDAD sends invoices to its customers on a monthly basis charging for the various services, correct?
A. Yes, sir.
Q. The customers when they get the invoice pay MDAD for the services, correct?
A. Yes, sir.
Q. Just like if I have BellSouth as my carrier

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at my home and they send me a bill I remit a check to BellSouth, you are sending bills to your customers and the customers are paying you, correct?
A. Yes, sir.
Q. Likewise, if a customer has a repair problem on their phone, your customer has a repair problem or their phone at the airport they are going to call you to fix it, correct?
A. Yes, sir.
Q. Just like if I have BellSouth at my home and I have a repair problem I would call them. There's really no difference, correct?
A. No, sir.
Q. And obviously when -- we just talked about MDAD billing the customers and receiving payment. That wasn't always the case, correct?
A. True. Yes, sir.
Q. When did that change?
A. Right after the, January 2002, the buyout of Williams.
Q. It is the case now the customers call you to repair the phones, correct? Just talked about that, the customers now call MDAD if they have repair problems, correct?
A. They contact both the department as well as

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a call center number as well.
Q. With respect to the invoicing and payments that changed in 2002. Prior to 2002, isn't it the case that the prior owner of the equipment and operator Nextera was invoicing the clients and receiving payment?
A. Yes, sir.
Q. And the county was not involved in that process at all?
A. Yes, sir.
Q. Let me show you what I will mark as MJ Exhibit 23.
(Pricing document marked Exhibit MJ23 for identification).
Q. Have you seen this document before?
A. No, sir.
Q. Let me direct your attention to the first page. As you see it separates in graph form pricing components into two charges, network charge and a port charge. Do you see that?
A. Yes, sir.
Q. The network charge includes in the box on the left local company lines. Isn't it correct that MDAD is charging for local lines or local service as part of its network charge?

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A. I cannot answer the question.
Q. Who would be best to answer that question?
A. Nextera or the voice technicians, the manager in Nextera that handles the voice or PBX, c some of the guys within my telecommunications uni
Q. Including Mr. Pedro Garcia?
A. Yes, sir.
Q. Let me ask you to go to page 2. Actually, let me ask you to page 1. Can you tell me what the IPE equipment represents or means?
A. We have seven of those. What it allows us to do is, simplest terms, it gives us the interconnectivity back to the PBX going out, based o where our PBX is located within the airport facility.
We use this to process. These are the meridians, options.
In its clearest technical terms, no. I know what they do, but in clearest technical terms, I cannot.
Q. Would Mr. Garcia be able to answer that question what IPE equipment is?
A. Yes, sir.
Q. Can you detail for me the distinction between the network charge, the port charge and the phone charge that you charge your customers that ar

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referenced at the bottom of this document?
A. Can I distinguish?
Q. Tell me what the differences are between the network charge, the port charge and the phone charge
A. There is a cost for the operation and maintenance of the hand sets and the functionalities and the cost for said purchase of the phones or the hand sets.
The port which is going from the wall to the closet that leads back to where this IP equipment is, that has to be maintained and supported operations and maintenance. So there is a cost for that.
On the network charge, I can't give you a clear definition.
Q. Why doesn't MDAD, the airport or the county mark up, according to you, let's assume that they are just charging MDAD the customers at cost for local service. Why is that? Why not mark it up if in fact they are not?
MR. HOPE: Objection to form.
A. I'm not sure but since we are not a phone company we are not selling phone service, so we don't mark up services that we receive.
Q. Is there any documentation whatsoever that supports that statement that you just made?

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A. Not that I'm aware of. I have to look at some.
Q. Do you have any documentation at the airport in any form that tells you that you are not a telephone company or telecommunications company o would support your prior testimony?
A. Not that I'm aware of.
Q. Is there any documentation that we can review that would address MDAD's decision to mark u or not mark up its charge for local service?
A. Not that I'm aware of.
Q. Just so we are clear, by documentation I'm talking about minutes of meetings, notes of any person at the airport, memos, correspondence, letters, e-mails, resolutions, county correspondence, all that is included. Are you aware of any such documentation that goes, that would go to that issue?
A. Not that I'm aware of.
Q. We can go to the second page, new pricing for MDAD STS customers. Do you see that in bold at the top, 9/30/02?
A. Yes, sir.
Q. I thought you just testified under oath that there's been no pricing changes since a number of years ago, seven, eight, nine, ten years ago.

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Can you explain this document?
A. No, I can't. My statement to you is that I was aware that there has been -- you asked me who made the decision with regards to pricing whether it is billed or not billed. I told you my statement to you that was established when the contract was first established.
Q. You didn't testify that the prices haven't changed for seven, eight, nine, ten years, that wasn't your testimony a little while ago?
A. It was a response to your question. So yes, that was a statement that I made.
Q. Is that statement incorrect after looking at this document right now?
A. Probably so.
Q. OK. Who made the decision to increase or change the pricing on September 30 of '02?
MR. HOPE: Objection to form.
A. It could have been done with the negotiations or part of putting new packaging together of addressing STS customers. As to when that was done, I don't know.
Q. By your own testimony you are the CIO of th telecommunications company that's operating at the airport, how can pricing be changed September 2002

without you knowing about it?
MR. HOPE: Objection to form.
A. Staffing makes a recommendation to make a change. I can let staff know to go back and review and make said recommendation to make the change and go do it.
Currently, right now there's some things that I don't deal with in its minute points on a day-to-day basis. And as a CIO I govern almost $130 million worth of work.
So yes, I'm dealing with a multitude of items. I also rely upon my senior managers to make decisions and effectuate change.
Q. Do you get evaluated or reviewed in your job as to the bottom line financial performance of your telecommunications facility?
A. No, sir.
Q. Do you --
MR. HOPE: Objection to form.
Q. Do you look at any time as to how your telecommunications facility is doing from a financial standpoint?
MR. HOPE: Objection to form.
A. On occasion, yes.
Q. What's on occasion? Once a week? Once a

day?
A. Every couple of months I'll do an inquiry as to where we are and what we have billed to date.
Q. And wouldn't anybody in your business with a business background understand that a major component of how you are going to do financially is revenue?
MR. HOPE: Objection to form.
A. Yes.
Q. Revenue is the amount of money that your business is taking in on a daily or monthly basis, correct?
MR. HOPE: Objection to form.
A. Yes.
Q. In any financial statement that you may see that's the top line on a financial statement, right?
A. I would say so.
Q. And in the simplest form a financial statement to determine how you are doing is going to take the revenue minus any expense to get to an operating profit, correct?
A. I would say yes.
Q. OK. So what you are saying to me today, and I just want to make sure that the record is very clear, is that you are not aware of or have knowledge of significant changes in your revenue stream?

MR. HOPE: Objection to form.
A. I am aware of changes that -- it's not my revenue stream. I don't manage revenue. I don't manage billing, I don't manage revenue, I don't manage collections. That is done by our financial department and our business management group who is concerned about the bottom line.
My concern is providing IT and telecom services to my users. That's my primary focus as the CIO. My role as the CIO is not to bring money in the balance sheet. It is make sure that I maintain operations for my facility. That's my role.
Q. The people you supervise and as a result you don't deal with your customers and negotiate prices and charges?
A. No, I do not.
Q. You don't personally is what you are saying?
A. Yes, sir.
Q. How about people who work for you?
A. No.
Q. In all the groups we mentioned that doesn't occur?
A. Negotiating of pricing, no, my guys don't do -- they don't do that. We come up with a pricing structure and that is it. We cannot arbitrarily --

we don't have the ability to arbitrarily make pricing changes.
Q. But people you supervise and therefore you come up with a pricing structure, correct?
A. We come up with a recommendation. That would have to be approved.
Q. Bottom line is you have no knowledge of this document which seems to indicate new pricing for STS customers as of September 30, '02?
A. I don't recall seeing the document.
Q. Does this refresh your recollection about new pricing that occurred in September, '02?
A. To be honest with you, no.
Q. OK. It lists on page 2 MDAD costs. Who was charging MDAD for the IPE, the DLC, the super loop and the common equipment at the amounts indicated on this document?
A. I believe that is Nextera, what would it cost us to purchase.
Q. What it cost to purchase Nextera's equipment under the purchase agreement that was consummated in February of 2002, or January of 2002?
A. I believe that to be true, yes.
Q. So then you come down, this is for voice line costs. What's voice line?

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A. That's telephone services.
Q. Two way telecommunication service, correct?
A. Yes, sir.
Q. And you have a total equipment cost in providing the voice line to your customers, correct, is that correct?
A. Yes.
Q. You have an interest carrying cost, a maintenance cost and then you add on profit, correct?
A. Yes, sir.
Q. And you come up with a voice line charge per month of 930, is that correct?
A. Yes, sir.
Q. Are you familiar with how this gets calculated?
A. No, sir, I'm not.
Q. May I ask you to go to the page that has network access costs. I understand you couldn't detail for me what network access is, but let me ask you in the middle of this page figured into MDAD's cost for network access there's a local line cost of $60,000. Do you see that?
A. Yes, I see it.
Q. And it does say next to it based on $500 per month per PRI. Can you tell the judge and us what a

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PRI is?
A. No, I cannot.
Q. Would Mr. Pedro Garcia know what a PRI is?
A. I would say yes, I guess.
Q. But I guess that might be an unfair question. I apologize but it's hard to know what he would know if you don't know what it is to begin with, right?
A. It's a possibility.
Q. Explain to me what the local line cost is.
A. Can't answer that question for you.
Q. What's a local line?
A. I believe one of my definitions was -- well, I'm not recalling right now. I'm not sure.
Q. Would Mr. Garcia be able to answer that question?
A. It's a possibility.
Q. It's more than a possibility, isn't it?
A. As I said, sir, it's a possibility.
Q. Again, it's a possibility because you don't know what local line is, right?
A. Yes.
Q. Local line sounds like local service to me, doesn't it?
A. Your interpretation, sir. I don't know.

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Q. Is there any fact, any document, any information that you have in your possession that would contradict my interpretation that local line sounds like local service?
MR. HOPE: Objection to form.
A. Not to my knowledge, sir.
Q. Back on that page, network access cost, directly below the local line cost of $60,000 is an entry of 15 percent profit, correct?
A. Yes, sir.
Q. So MDAD adds 15 percent profit or in this case $25,000 figure to its cost for network access, correct?
A. Yes, sir.
Q. And that's over and above the number that's been ascribed to local line cost, correct?
A. Yes, sir.
Q. So wouldn't you conclude that the $15,000 profit is a markup to the cost for network access?
MR. HOPE: Objection to form.
A. The $15,000 profit?
Q. Yes.
A. Which $15,000 are you referring to?
Q. Sorry. Wouldn't you agree that the 15 percent profit is a markup to the cost depicted for

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network access?
A. Yes, sir.
Q. So, therefore, you'd agree that the 15 percent profit also is a markup in part for the local line cost or what I've said is local service?
MR. HOPE: Objection to form.
A. I don't know that to be factual. You have to take these costs, total them, calculate 15 percent on the profit and determine whether that's included in 60 grand or not.
Q. Well, --
A. Or however the formula was calculated.
Q. OK. We'll come back to that. But you'd agree that the 15 percent, if the $25,000 is 15 percent of all the numbers starting with $4,352 down to and including the local line cost of $60,000, then you are in fact according to this document marking up local line cost and/or local service, correct?
MR. HOPE: Objection to form.
A. I don't know the fact that local line cost and local service are the same thing.
Q. Let's just assume for purposes of this deposition that they are. You'd agree then that you are marking up local service?
MR. HOPE: Objection to form.

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A. Yes, if that's indeed factual.
Q. And again, as we sit here today, there is nothing that you have as the corporate representative with the most knowledge of what MDAD charges or doesn't charge for local service, there's nothing in your knowledge base to contest otherwise, correct?
MR. HOPE: Objection to form.
A. Yes, sir.
Q. Let me show you what has been marked as MJ24.
(Proposal marked Exhibit MJ24 for identification)
Q. Have you seen this document before?
A. Yes, I've seen it before.
Q. What is this, please?
A. It's a proposal, voice proposal that would probably go to potential customer.
Q. In this case, just so the record is clear and for Dorian who is probably having a hard time understanding what we are looking at, the top of this document is Information Systems and telecommunications Miami-Dade Aviation Department and it says XYZ Airlines, and it is a voice proposal, correct?
A. Yes.

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Q. And then going down the document it proposes charges to the airlines for switch access, network access, system terminal equipment and system other, correct?
A. Yes, sir.
Q. And the outline of this proposal is very consistent with the airport rental agreement that we went over earlier in terms of the various charges that are outlined this that agreement, correct?
MR. HOPE: Objection to form.
A. Yes, sir.
Q. Now, let me direct your attention to the network access itemization for this airlines. The first line there is single line local network access. What does that stand for?
A. I'm not sure.
Q. It has an $18 fee associated with it, correct?
A. Yes, sir.
Q. How is that $18 arrived at?
A. I'm not sure. There's a formula that exists as to what we charge customers.
Q. But if you don't know what single line local access is, you can't tell me how the $18 gets arrived at, is that fair?

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A. Yes, sir.
Q. What is the distinction between single line local network access and the third item down, network access?
A. I don't know.
Q. And similarly you would not be able to tell me how the $49 charge associated with network access is arrived at, correct?
A. Correct.
Q. Would Mr. Garcia be able to answer these questions?
A. Most likely.
MR. GOLDBERG: Why don't we take ten minutes.
(Recess)
BY MR. GOLDBERG
Q. Mr. Jenkins, we are back on the record. Are you prepared to continue with your deposition please?
A. Yes, sir.
Q. Thank you. Let me just go back to a document that we were looking at when we took a break, and that is MJ Exhibit 24. Do you have that in front of you, correct?
A. Yes, sir.
Q. Just a couple of more questions about that.

goes back, it's that IP unit that you were asking about, that's a meridian 1. And the ports that come from the closet feed into that meridian box. So we charge apparently $12 from the port to get access to the meridian box.
So it goes from the phone to the closet, the closet to the meridian to the box itself and then generally it gets you to the PBX.
Q. So we go from the phone at the client, customer's office, right --
A. To the wall.
Q. You said a closet?
A. Right, because the wiring itself goes from the wall plate to normally goes to a closet. If not it is run back to the PBX or the meridian, depends on

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the location. But normally it would go back to a closet. If not to a closet, it would go directly to this port. Depends on the location of where we are running.
Q. But whether or not it goes through a closet it ultimately go backs to the PBX?
A. It goes to this meridian box.
Q. Where is the meridian box located?
A. They are strategically placed throughout the facility. They are in different parts of the airport.
Q. On the meridian box there's a port?
A. Yes, there are ports inside of them. Yes, sir.
Q. Is that where the line goes into?
A. It would run back to that line, yes, sir.
Q. What travels into that port?
A. Travels into that port?
Q. What goes into that port, just from a layman's perspective? I might be missing it.
A. The voice signal itself.
Q. The two way telecommunication?
A. Yes, sir.
Q. And the dial tone if there's not a voice goes into that port?

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A. The dial tone --
Q. Does the dial tone go into that port too?
A. It comes back this way, so, yes, sir.
Q. The dial tone goes both ways, in and out of that port?
A. It is routed, so, yes, sir.
Q. Without the port would you have dial tone? The answer is no, right?
A. The answer is no. It needs to be run back. So no, you wouldn't.
Q. Without dial tone there would be no need fo the port, right?
A. Yes, sir.
Q. Now, the port, that's part of a piece of equipment?
A. Yes, sir.
Q. What piece of equipment is the port part of?
A. It's part of the meridian box itself.
Q. Is there another name for a meridian box?
A. There is model numbers. That's the only thing I could tell you.
Q. Do you charge for the use of the meridian box?
A. Yes, sir.
Q. Separate and apart from the port?

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A. Can't answer that question. If I'm not mistaken the port is connected to the box so it is part of the box. I'm looking at that's where the cost is coming from.
Q. Separate and apart from this meridian 1 port charge of $12, does MDAD charge for use of the box the meridian box?
A. Outside of the use of that on this, no, I don't think we do.
Q. Not just on this document but on any -- and I only want you to answer if you know.
A. OK. I'm not sure. I would have to look at some other proposals as to the content, what the customer is asking for. So I would say no at this point, I'm not sure.
Q. Your phone is ringing. Do you need to get that?
A. No.
Q. On this airlines proposal at the end after a subtotal it has a line for discount. Do you see that?
A. Yes, sir.
Q. It says "if applicable." Who determines whether a customer gets a discount?
A. As there's nothing on there now, at one

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point when the service was being directly provided by our management entity if a customer engaged in long-term lease or long-term contract discounsel counts were issued to the entity.
So if they sign a five-year agreement for the provision or to get services from us or from the entity providing the service they get a discount. But since it's different from that now, so I believe we are not -- I don't think we are doing it any more.
Q. Also there is a line for cable and conduit if applicable. What is that for if you know?
A. If we need to get it to a customer premises and there are no facilities there, the cost to get to that premise is allocated as well to the customer.
Basically it's if you were in this building and there was no service and you were on the penthouse floor there would be a cost incurred to you to bring conduit to you, to bring service to you before you could get service. So that's the cost that's associated.
Q. Essentially in this proposal it is fair to say that there's a charge for everything that's associated with providing telecommunications service to your customers, correct?
MR. HOPE: Objection to form.

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A. Yes, sir.
Q. The bottom line is that your telecommunications business has a goal of increasing its profitability and making money for the county, correct?
MR. HOPE: Objection to form.
A. Yes, sir.
Q. And so it behooves you and your entity to charge the customers for all of your costs and including marking up all of those costs to an appropriate profit percentage, correct?
MR. HOPE: Objection to form.
Q. You can answer.
A. To what -- yes.
Q. I mean, in fact, it is your goal to grow this telecommunications business to reap revenues four, five times what it's presently making in the years 2003, 2004, correct?
MR. HOPE: Objection to form.
A. That's speculation. I never looked at it that way.
Q. You have never contemplated growing the business multi-fold?
A. To make it four, five times, no. We looked at making sure that we provide a service and we

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maintain that service.
It's offered and if an entity wants it. What we looked at primarily is to let our customers know, or potential customers, that we are on the airport facility and we could provide this. It's up to you whether you opt to use it or not, but if you do you're a customer and if not no. But it's not looked at to grow this five, ten fold. I don't make that much money off it to my knowledge in comparison
Q. Are you saying under oath that you have had no knowledge or discussion about growing the revenue for your telecommunications facility three, four, five fold over the years?
MR. HOPE: Objection to form.
A. No, sir, not growing it three, four, five-fold.
Q. Let me show you what we'll mark as MJ25.
(Two e-mails, Warner to Jenkins and Stout to Jenkins, marked Exhibit MJ25 for identification)
Q. This is an e-mail, actually two e-mails. The Tom one is from Howard Warner to Leonard Stout, yourself and Pedro Garcia. But the bottom one, which is an earlier e-mail, is from Leonard Stout to yourself because you are the first addressee, Howard Warner and Pedro Garcia. And this e-mail reads, and

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it is directed to you, correct?
A. Yes, sir.
Q. You are Maurice, right?
A. Yes, sir.
Q. "Maurice, I think you will like the numbers in this spread sheet. Present STS via Nextera 1 is about $2.1 million per year." And I summarized the number. "Future estimates total $15,864,000 per year present Nextera 1 operations. I would think these levels could be achieved by the end of the present CIP construction schedule. I think we should recast Maria's document into a shared services tenant report and include this table in the report then transit via Bo to the director. Let me know what you want done with regards to the above."
A. OK.
Q. Isn't, doesn't this document completely contradict your sworn testimony 15 seconds ago this that you have had direct discussions regarding growing the revenues of your telecommunications facility not three-fold, not four-fold, not five-fold but even seven-fold?
MR. HOPE: Objection to form.
A. Don't recall having the discussion. However, the consultant that sent me back this e-mail

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with his recommendations, that was his thought process when he came up with such statements, one.
Two, not taking into consideration that some of the services that were provided by Nextera at the time are no longer provided, so it cuts into that dollar amount. And with the CIP ending in 2007 I don't see how we could make $15 million.
I understand what you said here and I go back to my statement. I don't recall reading this e-mail. Now that you are bringing it back to my attention fine and dandy but this is over two years ago, so I did not recall.
Q. Well, a couple of questions. Number one, the e-mail asked you directly about something that should be sent to the director of the airport which is three or four levels above you. I mean, in any organization where you are asked to present information to your ultimate, ultimate supervisor and boss, isn't that a pretty serious issue or important issue for you to pay attention to?
MR. HOPE: Objection to form.
A. Yes, it is, but it still needs to be validated. This is one consultant's recommendation or discussion point at the time wherein we were looking at our telecommunications plus IT operations

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within the airport. Because if I am not mistaken, shortly after that, some of this information wasn't totally validated and Mr. Stout since left the airport.
Q. You would agree that growing the business, increasing revenue at the airport is something that gets discussed and it is a major goal of yours and MDAD's correct?
MR. HOPE: Objection to form.
A. Generating business, yes, I would say yes.
Q. And to generate business you would agree that you need to increase your customer base, correct?
A. Yes, sir.
Q. And in addition, to generate more revenue you could increase your rates that you charge your customers, correct?
A. It's a possibility.
Q. OK. And to increase your customer base you'd agree that MDAD, the airport, would need to successfully compete with other telecommunication companies for the customer base that you serve, correct?
MR. HOPE: Objection to form.
Q. Strike that. For the geographical territory

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that you serve.
MR. HOPE: Objection to form.
A. Yes.
Q. I mean, you would agree that you want to ge as many customers as possible within the territory that you are providing service to, correct?
MR. HOPE: Objection to form.
A. Yes, sir.
Q. There's no doubt about that, right?
A. No, there's no doubt about that.
Q. And your territory is Miami International Airport and its associated buildings and the other county owned airports, correct?
MR. HOPE: Objection to form.
A. Yes.
Q. Are you aware of any marketing strategies that have been put in place to market and sell your telecommunications service within that territory?
MR. HOPE: Objection to form.
A. Yes, sir.
Q. Who produces those marketing strategies to affect the territory?
MR. HOPE: Objection to form.
A. Nextera as part of their agreement, their marketing group is charged to do that.

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Q. Who is Leonard Stout?
A. He was a consultant with one of our management companies.
Q. Which management company?
A. Dade Aviation Consultants.
Q. Who is Howard Warner?
A. He's a special projects administrator that works for me.
MR. GOLDBERG: Let the record reflect that Mr. Tubaugh is leaving the room as he needs to catch an airplane.
A. I wish him well.
Q. Who is Kendrick Kouts?
A. He's one of my project managers overseeing some of my other IT related business systems for the airport. Works for DAC as well. He's a Dade aviation consultant employee.
Q. What was Leonard Stout charged with and why was he charged to come up with this projection?
MR. HOPE: Objection to form.
MR. GOLDBERG: Yes, those are two questions.
Q. So let me ask you this. Why was Leonard Stout asked to come up with these projections?
A. I'm not sure. He was asked to do some level of forecasting. His original scope of work when he

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came on board with the department was to come and evaluate and look at the design/implementation of a work order management system for the airport in addition to some additional IT related duties.
Q. I will show you what has been marked as MJ26. Do you recognize that document?
A. No, sir.
(Invoice marked Exhibit MJ26 for identification)
Q. Have you ever seen a document that looks like this before?
A. No, sir.
Q. This is ARBGS let me ask you, does it state on the document it's an invoice?
A. Yes.
Q. And it appears to be an invoice from the Aviation Department Metropolitan Dade County MIA to a particular customer the name of which has been blacked out, correct?
A. Yes, sir.
Q. Are you saying you are not familiar with the form of the invoices rendered by your telecommunications facility?
A. That is rendered by the finance department, not by my telecom facility.

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Q. And is this rendered by the finance department of the county?
A. Of the aviation department.
Q. Of the aviation department. What's the full name of the aviation department?
A. It's the Miami-Dade County Aviation Department.
Q. What's the purpose of that department?
A. We own and operate Miami International Airport and general aviation facilities.
Q. Let me show you what -- Does the finance department of the aviation department handle all billing to your telecommunication facility's customers?
MR. HOPE: Objection to form.
A. I believe so, yes.
Q. Could you tell me when you look at this document, MJ26, what is included in the 81.75 that's being billed where it says "missed charge monthly rental for telephone and maintenance"?
A. What's included in it, it's monthly rental for the telephone and the hand set itself as well as the maintenance that goes along with that to deal with our customers if they have a problem. So that's from the hand set to the port that leads back to the

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PBX.
Q. Is access billed in this invoice?
A. Access to?
Q. Well, we have talked about network access, talked about switch access. Are any charges include on this invoice for those services?
A. I'm not sure. I would need to look at the detail that may have come along with it.
Q. Let's try another example. Let me show you what I will mark as MJ27.
(Invoice marked Exhibit MJ27 for identification)
The first page of this document is another invoice similar to MJ26, correct?
A. Yes, sir.
Q. You want it take a look. This amount is for $85.75, correct?
A. Yes.
Q. Dated July 1, 2002, correct?
A. The total amount is $91. The first item you are talking about?
Q. You are right.
A. 85.75.
Q. And the sales tax is 5.57 for a total of 91.32, correct?

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A. Yes.
Q. And if you turn to the second page of this composite exhibit. This a form that also is entitled Miami-Dade Aviation Department standarized form. Wh produces this form?
A. I believe it's -- I'm not sure. It either comes from us or comes from Nextera. I believe it comes from the department.
Q. From the department, aviation department?
A. Yes, sir.
Q. And you see that the amount on there the total, 85.75, equals the first line item on the previous invoice?
A. Yes, sir.
Q. And then if we go to the third document, that is a contract invoice that has Nextera 1's logo on there, that also is for rental monthly of 85.75, the same amount that we have seen on the prior two documents, correct?
A. Yes, sir.
Q. Does Nextera 1 complete or make this document, the third page?
A. Yes.
Q. The 85.75 in this instance for this customer during the month for service during the month of May

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because it says billing period from 5/1 to 5/31/02, is made up of these three line items, correct?
A. Yes,sir.
Q. Meridian 1 port, you had previously testified that that was a line that went back into the meridian box, correct, or that's actually a port in the box?
A. Yes, sir, that was the statement I made.
Q. How many ports are in a meridian box?
A. I think 256 but I'm not sure. I don't know.
Q. Not sure. All right. And here, they are charging for four ports. What does that mean?
A. Four ports I believe would be four hand sets. I'm not sure. Unless they are using -- well, the four ports, they have four access ports that could be used either one for fax, one for a phone, two other ports for data if I'm not mistaken. I would assume that to be that.
Q. Below it has single line access and I think before you testified you don't know what single lin access means?
A. No, sir.
Q. Do you have an explanation why you would need two single line access when you have four meridian 1 ports?

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A. No, sir.
Q. What's a 2500 set on the third line?
A. I believe that's a hand set but I'm not sure. It's a telephone, I believe, but I'm not sure.
Q. So if there's four meridian 1 ports are we saying according to your testimony here today that there's four lines that have dial tone?
A. That is a possibility.
Q. Do you know that for a fact?
A. For a hundred percent certain, no, I do not.
Q. Let me show you now what I'll mark as MJ28. This is also a composite exhibit. And you correct me if I am wrong but just for the record this a Miami-Dade County Aviation Department STATS billing form for the period dated March 29, '02, correct?
A. Yes.
Q. For a billing period of February 7 through March 6 of '02, correct?
A. Yes, sir.
(MDAD billing form marked Exhibit MJ 28 for identification).
Q. The amount in total is $689.59, correct?
A. Yes, sir.
Q. Let's go to the next sheet in that exhibit. This again is a Nextera 1 document, correct?

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A. Yes, sir.
Q. And the coverage says "full serve." What does full serve mean?
A. I'm assuming full service. I'm not sure what definitions, the acronyms are.
Q. On this bill you are charging for 28 meridian 1 ports. How is that or why is that?
A. It depends on the customer and the requirements of the customer. I don't know unless I know what the customer is and what they have asked for.
Q. Then they are charged for advance features. I want to talk to you about advance features, call waiting, conference call. Is that something that your telecommunications business provides as a service to your customers?
MR. HOPE: Objection to form.
A. Yes, sir.
Q. And do you charge for each particular feature that the customer orders?
A. Yes, sir.
Q. So there would be a charge for call waiting, there would be a charge for conference calling, a charge for call forwarding?
A. Sometimes they are bundled. Most of the

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times they are individual items. They would be billed as individual items. Also, including like voice mail.
Q. And those are features or services that you and only you, I mean MDAD and only MDAD, billed and provided to your customers, correct?
MR. HOPE: Objection to form.
A. Yes.
Q. And you recognize that carrier such as BellSouth or Worldcom or other telecommunication companies also provide these features as well to their customers, correct?
A. I know BellSouth does. I'm not sure if Worldcom offers it.
Q. But at least BellSouth does, correct?
A. I use it at home.
Q. What's rotary system access?
A. I'm not sure.
Q. What are the items depicted as M208AFD and M208B and M208D on this document?
A. They are products. I would have to look into our inventory and what we have to tell you exactly what those individual items are.
Q. Your telecommunications company also has and offers voice mail to your customers, correct?

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MR. HOPE: Objection to form.
A. Yes, sir.
Q. And that's depicted on this bill as well, correct?
A. Yes, sir.
Q. That's a service that other companies such as BellSouth provide to its customers, correct?
A. Yes, sir.
Q. Then if we can go to the next page, can you tell me that this document is?
A. It's a call detail that we -- it's a call detail of the phone --
Q. Who produces this call detail report?
A. We have the ability to do it, we being within my telecom unit we have access to a device that we can run calls through, incoming calls and outgoing calls.
Q. So does this call detail, is it limited to local calls or long distance calls or both?
A. No, there's no limitation. Every number that a phone dials, there's a detail with regards to that phone call, the number -- I'm sorry.
Every number that you dial from a hand set at the airport outlines -- that data is captured in regards to the time of the call, where the call was

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made to and the duration of the call.
Q. So whether it's local, a local call or a long distance call, your telecommunications company tracks that call, times that call and can charge for that call, is that correct?
MR. HOPE: Objection to form.
A. No, sir.
Q. What's incorrect about that statement?
A. We look at -- we analyze that and see what calls were made. It's available, but we are not charging for the calls. We use it for several things.
County staff when they use our phone system calling Information if it is not for work and personal use that money is due back to the county because they are using it for personal use.
If you use our phone system to make a long distance phone call to call a family member or friend in another city or another country and it comes up in our reports that money if it is a personal call is due back. There's a county ordinance against misuse of county property --
Q. Let me interrupt. For county employees?
A. Yes. For our customers we outline that if their calls that are made that are not part of I

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guess the standard service that you are being billed for, if it is long distance or calling Information and there is a fee for it, that fee is passed to the customer to pay.
Q. This bill is not for a county employee, correct?
A. No, it's -- no it's not.
Q. So your explanation about charging an employee for a call to Information or if it was personal doesn't fit this document or a reason why it's charged here, correct?
A. No, it doesn't.
Q. OK. What we see here, do we not, is MDAD charging for a local call? 305-555-1212 is information, correct?
MR. HOPE: Objection to form.
A. The user called Information. That cost that the user -- that was incurred for making that call was passed to the user.
Q. Is it your testimony that MDAD incurred $1.40 charge for that call that was placed to Information 305-555-1212, is that your testimony?
A. February 18 of 2002 that's the cost that -- yes, sir.
Q. How do you know that that's the cost?

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A. I don't know what the rate is for calling Information. I would have to go back and look and see but I don't know what the cost of calling Information is.
Q. Do you ever call information from your home at any time?
A. I try not to.
Q. When you do do you get charged for it?
A. Yes, sir, I believe so. Yes, sir, I do.
Q. Have you ever seen a charge for $1.40 on your bill for one call to get a phone number?
A. Not that I recall.
Q. Wouldn't you agree common sense, prudence and our life's experiences here in Miami that $1.40 is not the cost --
MR. HOPE: Objection to form.
Q. I'm not done with my question. That $1.40 is not the cost of a call to Information?
MR. HOPE: Objection to form.
A. I don't know what the cost is for calling this number in comparison to let's say 411.
Q. Notwithstanding whether $1.40 is the cost or not, the fact remains, does it not, that you are charging a customer for a local phone call, correct?
MR. HOPE: Objection to form.

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Q. That's a yes-or-no question.
A. No.
Q. So it is your testimony that that document does not indicate that you are charging the customer for a local phone call?
A. No -- yeah, that's my statement to you.
Q. OK.
A. That's an office --
Q. Let me ask you this. If a customer at the airport picks up his phone, dials 305-555-1212, explain to me technically what happens with that call, where does it go and how does it get answered?
A. From a pay phone?
Q. No, one of your clients, customers at the airport, this customer, for example, this customer at the airport picks up his phone and dials 305-555-1212. How does that call get placed technically?
A. Like any other phone call. It's picking up the phone, he's dialing the ten digit number, nine plus the ten digit, nine for the outside line, dialing the ten digit number, gets run through the PBX.
Q. Your PBX, and goes through the BellSouth switch and to its location. This 555-1212, it is a

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service that you are paying for. So it's billed as such. What you just described is a call that travels on your system to your PBX, then gets routed out on to the BellSouth system to wherever the 305-555-1212 is, correct?
A. Yes, sir.
Q. And that's a local phone call by your definition during this deposition, correct?
A. Yes, sir.
Q. And here, this is evidence that you were charging for that local phone call, correct?
A. No, sir. You are being billed. If I dial 9-411 from my phone, if I dial 9 to get outside line and then 411 for information, I am billed for calling information.
And 555-1212 is Information. You are getting bill for calling Information, not for making a local call.
Q. What's the difference between making a local phone call and making a local phone call calling Information?
A. Because if you picked up the phone and you dialed your office, my cellphone, this would not appear on here. You don't charge people to call you.
Q. BellSouth doesn't charge in this instance

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anything for this phone call, correct?
A. I don't know that to be true.
Q. Do you have any facts in your knowledge base to suggest that they do charge?
A. I believe I've seen it in the past in which people who have called that number, I think 555-1212, is like nationwide information. But I know for a fact if you are dialing standard information of 411 you do get billed for it.
Q. Are you suggesting here today that the $1.40 is simply the cost that you are billed for this informational call that you are billed from whatever the information service is, is that what you are testifying to?
A. I believe that to be true, yes, sir.
Q. Do you have any facts or specific knowledge that would support your belief that that's true?
A. No, sir.
Q. Let me ask you to flip two more pages to the Nextera 1 document almost towards the end.
A. Two pages?
Q. Two more pages. Keep going please, I'll show you. That document right there. If you go down and this is another item sayings for the bill. If you go down four entries it has single line local

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network access.
A. Yes, sir.
Q. We talk about that a couple of times and I know you testified you don't know exactly what tha is but let me ask you a different question about it.
If I could ask you to, if you don't mind me reaching over I could maybe help you on a prior exhibit --
MR. HOPE: 26 and 27 were the prior bills.
Q. Do you have 27 in front of you?
A. Yes, sir.
Q. Why don't you turn to the last page of 27 and compare it to the page we were at on 28.
Exhibit 27 is invoice from May of '02 and Exhibit 28 is an invoice from February of '02. Do I have that correct?
A. Yes, sir.
Q. On Exhibit 28 the line description is single line local network access. Yet on 27 the description is single line access. The word local is dropped.
Can you explain to me why that is?
A. No, sir. Could be typing, clerical. No, I cannot. Don't know.
Q. Let me show you what I'll mark as MJ Exhib 29.

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(Invoice marked MJ29 for identification).
Q. This is a composite exhibit where the first document is a similar STAT standarized billing form dated September 18, 2002, correct?
A. Yes.
Q. And the total is $207.23, correct?
A. Yes, sir.
Q. If we could ask you to flip to the second page where it says Nextera 1 itemized bill. And then I am going to direct you to go further, if I could ask you to keep going and I'll stop you on a particular page that's not marked. It's at the top. It's a detailed bill, STS detailed?
A. ABS within the last month?
Q. Actually, the number at the bottom right-hand corner is 9358.
A. Page 3. Got it.
Q. What is this document?
A. It's -- these are bills. Well, it's call detail for a customer based upon his phone, his phone number.
Q. Is this long distance detail or local or what?
A. This is, whatever is deemed to be long distance out of our calling area. Long distance

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international calls that were made.
Q. So this would be a long distance document, correct?
A. Long distance international calls, yes, sir.
Q. Do you mark up long distance charges?
A. No, sir, we do not.
Q. What is the authorization code on the right-hand side?
A. Well, some of our customers, depending on who they are, mostly carriers are given authorizatior codes or access codes to allow them to make long distance calls and international calls to avoid misuse, abuse, fraud, and so forth.
Q. Understood. Since we noticed this deposition for local service, I won't ask any more questions about that document. So you can put that aside. We'll save that for another day since the day is getting shorter now.
MR. GOLDBERG: David, what I think I am going to do is take a five-minute break and see what else I have. Is that with you?
MR. HOPE: That's fair.
(Recess)
Q. Mr. Jenkins, are you ready to continue with your deposition?

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A. Yes, sir.
Q. Let me just ask you this. Is MDAD or the county providing any form of telecommunication service at other county owned airports aside from MIA, because we have talk about MIA extensively here today?
A. Are we providing any other telco service?
Q. Yes.
A. To customer -- I'm sorry. To staff or to customers or STATS customers?
Q. Let me rephrase it. Is MDAD and the county providing any form of telecommunication service at other county owned airports other than MIA?
A. Yes, sir.
Q. First of all, let me ask you, are you the best person to question about the telecom services being provided at other county owned airports?
A. It depends on what the questions are, but yes, sir.
Q. What services are being provided at the other county owned airports?
A. Their telecom services to aviation department staff that have offices or facilities at the county owned airports.
Q. Is this a subject matter that you e-mailed

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Pedro Garcia about or you asked Pedro Garcia about t which he responded in e-mail form?
A. I did inquire about that, yes.
Q. Would you agree that Pedro Garcia is best suited to testify about that service at other county owned airports?
A. I'm not sure. When he posed -- well, I'm not sure, reason being when I posed the question to him he said let me go back and get back with you. Which means he did not know offhand, which means he had to go look for the information as well.
Q. Do you know where he got it from?
A. No, sir, I do not.
Q. After some discussion with Ms. Liebman, let me ask you this question which may clarify things.
Is MDAD or the county providing telecommunication services to tenants at other county owned airports other than MIA?
A. No, sir.
Q. So the telecom services are being provided at the other county owned airports are only to internal county employees and/or staff?
A. Yes, sir.
Q. And just for my edification, what type of services are going to your own employees or staff at

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the other county owned airports?
A. They have hand sets, they have phones, standard telecommunications, voice and data, network; they have the whole gamut of services that we have at the airport.
Q. Are they connected to you via e-mail?
A. Yes, sir, they have access to e-mail, access to phones, access to voice mail, access to the network to send and receive e-mails in addition to access, computer applications if necessary to do their jobs that may not be stored or available locally at the GA.
Q. Am I correct in concluding that there are no commercial tenants receiving telecommunication service from MDAD at the other county owned airports
A. Yes, sir.
Q. Are there any commercial tenants at the other county owned airports?
A. Yes, sir. We have what's called our fixed base operators conducting business.
Q. Airlines and such. Let me ask what are fixed base operators?
A. A flight school is a fixed based. A concessionaire at an airport at Tamme Amy is a concession owned operator.

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Whatever else is out there, Opa Locka. Any other facility. I think there is a jump school at Homestead General. You have those things that are sitting out there.

Q. Why doesn't the county or MDAD provide telecommunication service to those commercial tenants at the other county owned airports?

A. Don't know. I guess we haven't gotten around to either discussing or asking.

Q. Are you aware of any plans to do that?

A. I haven't had any discussions with my guys about it yet.

Q. When you say your guys, have you had any discussions with anybody who you report to about that?

A. Oh, no, sir.

Q. Who does Angela Giddens report to?

A. County manager.

Q. Who is who right now?

A. Mr. George Burgess.

Q. How long has he been the county manager?

A. He just came back. I'm not sure.

Q. Recently?

A. Yes.

Q. Are you aware of any discussions with the

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current county manager with respect to this lawsuit?

A. No, sir.

Q. Are you aware of any discussions with the prior county manager with respect to this lawsuit?

A. No, sir.

Q. Are you aware of any meetings that have taken place regarding this lawsuit that you have not been in attendance at?

A. No, sir.

Q. Would you expect to be at any meeting where this lawsuit was discussed?

A. I guess it depends. I'm not sure if I need to attend. I don't know.

Q. Why did the county enter into the transaction it did in January of 2002 to purchase the assets of Nextera?

A. It was, if I recall properly, based upon an audit and a review by county auditors, as well as there was an individual that came from the police department that was there temporarily, I believe it was Tom Arnold, that looked at processes from law enforcement and looked at processes and looked at the agreement and other things and said it would be in the county's best interest to buy out and own and operate rather than the existing way we were doing

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business at that time.

Q. What was the existing way that you were doing business at that time?

A. It was a managed services agreement in which Nextera provided the service, did the billing and operated, supported the MDAD voice network or voic system, voice network as it stood and they managed and operated, and there's a management fee.

There was I think a percentage of the share tenant revenue that came back. Whatever was generated came back to the department.

Q. So before January 2002, Nextera owned and operated the telecommunications facility, correct?

MR. HOPE: Objection to form.

A. They owned it. They operated it under a management agreement with the department, yes, sir.

Q. And then after January of 2002 the county owned and operated the facility, correct?

A. The county owned the facility and we contracted to have someone operate it for us.

Q. But aren't we saying the same thing. If the county is operating the facility after 2002, albeit through a management agreement, the county is still operating the facility? You are operating it, correct?

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A. We are still operating it, yes.

Q. There is no dispute about the fact that you are operating it, correct?

A. All right.

Q. And you weren't operating it before January 2002 because Nextera was?

A. Yes, sir.

Q. There's no dispute about that, correct?

A. Yes, sir.

Q. Meaning there's no dispute, you agree with me, right? Sorry. You do agree with me, there is to dispute, right?

A. I concur with your last statement.

Q. Thank you. I appreciate that.

MR. GOLDBERG: No further questions. Mr. Hope.

MR. HOPE: None.

MR. GOLDBERG: You have a right after every deposition once the court reporter prepares a transcript, it is your right to elect to either read the transcript to make sure that it's accurate or to waive reading of the transcript. I'm sure Mr. Hope --

MR. HOPE: We want to read.

MR. GOLDBERG: He has said you are going to

read.
(Deposition concluded at 5 o'clock p.m.)

MAURICE JENKINS

Sworn to and subscribed before me this ____ day of _____, 20__

Notary Public in and for the State of Florida at Large.

CERTIFICATE OF NOTARY

STATE OF FLORIDA)
SS
COUNTY OF DADE)

I, MICHAEL J. D'AMATO, a Shorthand Reporter and Notary Public in and for the State of Florida at Large, do hereby certify that I did report in shorthand the deposition of MAURICE JENKINS, a witness called by th Plaintiff in the above-styled cause; that the witness was first duly sworn by me; that the reading and signing of the deposition were not waived by the witness; that the foregoing pages, numbered from 1 to 197, inclusive, constitute a true record.

I further certify that I am not an attorney or counsel of any of the parties, nor related to any of the parties, nor financially interested in the action.

WITNESS my Hand and Official Seal this 17th day of August, 2004.

MICHAEL J. D'AMATO, RMR
Notary Public State of Florida
My Commission # DD 1044542
Expires June 13, 2008

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Exhibit E

MEMORANDUM

TO: Honorable Chairperson and Member Board of County Commissioners

DATE: January 29, 2002

FROM: Steve Shiver County Manager

SUBJECT: Telecommunications Services at the Aviation Department

RECOMMENDATION

It is recommended that the Board of County Commissioners (the "Board") approve the attached resolution waiving the competitive bid requirements of Administrative Order No. 3-2 related to the procurement of commodities and services and approve in principle the non-exclusive "Telecommunications, Data Network, and Shared Airport Tenant Services" management agreement ("Agreement") between Miami-Dade County, (the "County") and NextiraOne, LLC[1] ("Nextira"), substantially in the form attached hereto, which provides for: 1) the acquisition of, in accordance with the principles delineated in the Agreement, title to all telecommunications network, data network, and common use terminal equipment ("CUTE") infrastructure, software, licenses, permits, and other assets as described in Schedule A to the Equipment Lease and Maintenance agreement ("ELM Agreement") and Schedule E to the Shared Airport Tenant Services agreement ("SATS Agreement"), as of February 6, 2002 for the acquisition price of $6,450,000 which will be amortized at five (5) percent over five (5) years; 2) resolution of various claims arising out of the ELM Agreement and SATS Agreement; 3) assignment to the County all existing tenant SATS and CUTE agreements entered into by Centel or its successors or assigns with tenants at Miami International Airport ("MIA") or the County's other owned or operated general aviation airports; and, 4) Nextira to become the interim telecommunications infrastructure manager, to provide for the design, installation, maintenance, repair, management, and operational support services for all voice and data network infrastructure for the Miami-Dade Aviation Department ("MDAD") and shared airport tenant services customers at MIA and the General Aviation Airports ("GAAs") until a new provider is selected, but for no longer than a period of twenty-four (24) months.

In addition, it is recommended that the Board approve the attached resolution authorizing the County to make direct purchases of the following equipment: (i) wiring, (ii) cabling, (iii) fiber optic cables and equipment, (iv) telecommunications equipment, (v) telephone and data network equipment, (vi) software, and (vii) material and supplies, necessary to maintain, support, operate, and expand the telecommunications, data network, and shared airport tenant services at the County airport systems facilities. Under this system the County will purchase directly, certain commodities as indicated by Nextira and be exempt from paying state sales taxes and mark-up

[1] NextiraOne, LLC is the successor or assignee of Centel's rights and obligations (via Williams Communications Solutions, LLC) under both the ELM Agreement and the SATS Agreement.

costs on these purchases. It is also recommended that the Board authorize, in accordance with Ordinance No. 99-63, the inclusion of a random audit provision, including the one quarter (1/4) of one percent assessment, in the Agreement. It is further recommended that the County Manager be authorized to execute the Agreement.

BACKGROUND

The County is currently under contract with Nextira. Nextira leases to the County, and manages, operates and maintains all the telecommunications infrastructure and services serving MIA and the GAAs at an approximate annual cost of $7,300,000. MDAD's agreement with Nextira expires on February 6, 2002.

NEGOTIATIONS

In July 2001, the Board approved Resolution No. R-852-01, approving a professional services agreement between the County and ResAvia. ResAvia is providing specialized technical and negotiation services to resolve the various claims arising out of the ELM Agreement and SATS Agreement entered into between the County and Nextira, and to negotiate a buy-out and new agreement with Nextira to allow MDAD an opportunity to finalize its long term voice and data telecommunications strategy.

INTERIM MANAGER FOR TELECOMMUNICATIONS INFRASTRUCTURE

MDAD is simultaneously working to develop a request for proposal ("RFP") to award a contract to a service provider to serve as the manager of the telecommunications infrastructure. Due to time constraints, the County will not be able to award this contract before February 6, 2002, when the Nextira contract expires. To assure the uninterrupted operation of the County airports, ResAvia, MDAD and the County Attorney's Office negotiated a proposed management agreement type contract (the "Agreement") with Nextira, to retain it as manager of the installed telecommunications infrastructure based upon County ownership of the equipment as further described below:

PROJECT LOCATION:	Miami International Airport and General Aviation Airports
PROJECT DESCRIPTION:	Provides for the operations, management, maintenance, service, support and equipment and supplies of the telecommunications and data, infrastructure, hardware and software systems for the MDAD and the shared airport tenant services customers at Miami International Airport and the General Aviation Airports. The scope of services includes the management of the shared airport tenant services for the County, including CUTE, to tenants and users at the Airport. In addition, Nextira will be

required to implement a transition program, one hundred and twenty (120) days prior to the expiration of the term of this Agreement, to ensure that either the new vendor selected as a result of the RFP process or MDAD's operating and maintenance personnel are trained in all aspects of the telecommunications and data infrastructure.

FIRM: NextiraOne, LLC

LOCATION OF FIRM: Houston, Texas

TERM OF AGREEMENT: The Agreement shall be for a duration of twenty-four (24) months. The County may terminate the Agreement with or without cause on thirty (30) days written notice to Nextira, provided however, the Agreement shall have a minimum term of eighteen (18) months unless terminated earlier for cause.

AMOUNT OF AGREEMENT:

Compensation to the Contractor

One-Time Acquisition Price:

Acquisition of the telecommunications, data network, and CUTE infrastructure, software licenses, permits, and other assets in Schedule A to the ELM Agreement and Schedule E to the SATS Agreement of $6,450,000 which will be amortized at five (5) percent over five (5) years.

Fixed Management Fee:

This Agreement provides for a fixed management fee of $6,144,067 for the first year, which includes overhead and profit, staff transition costs, vendor agreements and spare parts carrying charge.

The compensation for the second year is based on this Management Fee as adjusted by the budgeting process that incorporates the requirements of the Capital Improvement Program (CIP) and the change in the Consumer Price Index (CPI) for the salaries of the personnel.

Variable Costs:

The Agreement also provides for the variable costs, when authorized by the Department, and includes: 1) the procurement of parts, materials and software ($2,680,000), 2) On-call after hour services ($273,000), and 3) subcontractor services for wiring installation and maintenance, as necessary ($899,415).

SATS Revenue:

Per the SATS Agreement, last year MDAD received $267,000 which was based on ten (10) percent of gross revenues. Under this new Agreement, MDAD will receive all SATS gross revenues which last year was $2,670,024. This revenue is expected to increase based on new marketing initiatives presently under development.

Compensation to the County

The Contractor will pay to the County the sum of $110,000, on February 6, 2002, on account of excess space occupied without lease by the Contractor in Building 3030 at MIA for the period from November 1, 1997 to and including February 6, 2002.

RECOMMENDED CONTRACT MEASURES:	No measure
USING AGENCY:	Miami-Dade Aviation Department
FUNDING SOURCE:	Miami-Dade Aviation Department Operating Budget for Consulting Services and Aviation Revenue Bonds.
APPROVED FOR LEGAL SUFFICIENCY:	Yes

CONTINGENCY PLAN

As reported to the Board at its December 18, 2001 meeting, in the event that the negotiations with Nextira fail and no agreement is reached by the contract expiration date, the Department has a contingency plan to assure continuity in the provision of telecommunication services.

SUMMARY

In summary, our preferred outcome is a negotiated buyout of the telecommunications equipment and infrastructure, retaining Nextira for a limited time to act as manager of the telecommunications infrastructure, and obtaining a long-term contract for telecommunications infrastructure management through a competitive request for proposal. In addition, the above recommendation begins the implementation of MDAD's long-term, cost-effective strategy to enable better management and control of our telecommunications infrastructure. In the alternative, MDAD has a plan to continue services without Nextira while procurement processes and legal remedies are undertaken.

Attachment

MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: January 29, 2002

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(A)(1)(D)

Please note any items checked.

_____ **"4-Day Rule" (Applicable if raised)**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Statement of private business sector impact required**

_____ **Bid waiver requiring County Manager's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **"Sunset" provision required**

_____ **Legislative findings necessary**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6(A)(1)(D)
1-29-02

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
DADE COUNTY, FLORIDA

RESOLUTION NO. R-31-02

RESOLUTION RELATING TO TELECOMMUNICATIONS, DATA NETWORK, AND SHARED AIRPORT TENANT SERVICES AT MIAMI-DADE COUNTY AIRPORT SYSTEM FACILITIES; AUTHORIZING PURCHASE OF LEASED EQUIPMENT; AUTHORIZING APPROVAL AND EXECUTION OF NON-EXCLUSIVE MANAGEMENT AGREEMENT WITH NEXTIRAONE, LLC FOR INTERIM TWO-YEAR PERIOD; AND WAIVING COMPETITIVE BID PROCEDURES AND PROVISIONS

WHEREAS, Miami-Dade County, Florida (the "County") and Centel Communications Company ("Centel") entered into an Equipment Lease and Maintenance Agreement, as of July 24, 1990, and retroactive to February 7, 1988 (the "ELM Agreement") which ELM Agreement terminates on February 6, 2002; and

WHEREAS, the County and Centel also entered into a Shared Airport Tenant Service Agreement (the "SATS Agreement") which SATS Agreement terminates on February 6, 2002; and

WHEREAS, NextiraOne, LLC ("Nextira") is the successor or assignee of Centel's rights and obligations (via Williams Communications Solutions, LLC)[1] under both the ELM Agreement and the SATS Agreement; and

WHEREAS, it is in the best interest of the County to acquire title to all telecommunications, data network, and common use terminal equipment ("CUTE") infrastructure, software, licenses, permits, and other assets as detailed on Schedule A of the ELM Agreement and Schedule E of the SATS Agreement, as of February 6, 2002 (the "Assets"); and

1 In 1991, Centel Communications Company ("Centel") was acquired by WilTel Communications System ("WilTel"), and in 1995, Williams Communications Solutions, LLC was created from the merger of WilTel and Nortel Communications Systems.

WHEREAS, an interim manager is necessary to operate, maintain, and manage the Assets, until a telecommunications and data network request for proposal ("RFP") is circulated and a new manager is selected; and

WHEREAS, Nextira, as the owner and operator of the Assets, has the personnel, technical and product knowledge, expertise, and market recognition to manage the Assets,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that the Board:

Section 1. Authorizes the payment of $6,450,000 to Nextira, for the purchase of the Assets, to be used and operated by or for the Miami-Dade County Aviation Department.

Section 2. Authorizes the approval and execution of a non-exclusive "Telecommunications, Data Network, and Shared Airport Tenant Services" management agreement (the "Agreement") with Nextira for an interim two (2) year period, and delegates to the County Manager the authority to negotiate all terms and conditions necessary to consummate the Agreement. The Agreement shall contain a random audit provision to be conducted by the Office of the Inspector General, pursuant to § 2-1076(c)(6), Code of Miami-Dade County Florida (the "Code"). The Agreement shall also contain a provision for the County to retain the services of an independent private sector Inspector General ("IPSIG"), pursuant to Administrative Order No. 3-20.

Section 3. Waives competitive bid provisions of Administrative Order Nos. 3-4 and 3-16 related to the procurement of professional services.

Section 4. Waives competitive bid provisions of Section 4.03(D) of the Home Rule Charter and the requirements of Administrative Order No. 3-2 in connection with the purchase by the County of (i) wiring, (ii) cabling, (iii) fiber optic cables and equipment, (iv) telecommunications

equipment, (v) telephone and data network equipment, (vi) software, and (vii) material and supplies, necessary to maintain, support, operate, and expand the telecommunications, data network, and shared airport tenant services at the County airport system facilities. Such waiver is by a two-thirds (⅔) vote of the Board members present.

The foregoing resolution was offered by Commissioner Dorrin D. Rolle, who moved its adoption. The motion was seconded by Commissioner Katy Sorenson and upon being put to a vote, the vote was as follows:

Dr. Miriam Alonso	absent	Bruno A. Barreiro	aye
Dr. Barbara Carey-Shuler	aye	Betty T. Ferguson	absent
Gwen Margolis	absent	Joe A. Martinez	aye
Jimmy L. Morales	aye	Dennis C. Moss	aye
Dorrin D. Rolle	aye	Natacha Seijas	aye
Katy Sorenson	aye	Rebeca Sosa	aye
	Javier D. Souto aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 29th day of January, 2002. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: KAY SULLIVAN
Deputy Clerk

Approved by County Attorney as to form and legal sufficiency.

dsh

David Stephen Hope

Exhibit F

MEMORANDUM
OFFICE OF THE COUNTY MANAGER

Agenda Item No. 6(A)(1)(A)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: September 24, 2002

FROM: Steve Shiver
County Manager

SUBJECT: Resolution approving recommendations relating to shared airport tenant services for the Aviation Department

RECOMMENDATION

It is recommended that the Board approve the attached resolution that will authorize the County Manager or his designee to: (i) execute standard form airport rental agreements for shared airport tenant services ("SATS") to offer telecommunications and network access to airport tenants; (ii) negotiate such terms and conditions as may be necessary on a tenant by tenant basis; and (iii) issue renewal and event of default notices, and in the instance of default, to take necessary termination actions for failures to correct defaults on a timely basis all in accordance with the airport rental agreement.

BACKGROUND

On January 29, 2002, the Board of County Commissioners (the "Board") approved Resolution No. R-31-02 relating to the telecommunications, data network, and shared airport tenant services at Miami-Dade Aviation Department ("MDAD"), and entered into a non-exclusive management agreement with NextiraOne, LLC (the "Contractor") wherein MDAD receives all SATS gross revenues.

Shared airport tenant services consist of telecommunications, voice and data network services which MDAD offers to its tenants. The Contractor is required to use its best efforts to establish, market, maintain, operate and manage SATS for the County to tenants and users at Miami International Airport ("MIA") and the General Aviation Airports ("GAA"), consistent with the requirements of the Public Service Commission of Florida ("PSC") or whatever other governmental entity has jurisdiction over SATS, if and where applicable, and all applicable laws.

It is requested that the Board delegate to the County Manager or his designee certain specified and limited authority that would provide for more efficient management of airport properties, maximization of revenues, and better operational flexibility for users of said facilities. Given the changing or different needs of each tenant requesting SATS, it is also requested that the Board delegate the authority to negotiate such terms and conditions as may be necessary, on a tenant by tenant basis, to allow the County to be responsive to the needs of the MIA and GAA business partners. The rental term may vary depending on the tenant but in no occasion will any airport rental agreement exceed forty-eight (48) months

The installation and monthly rental fees for SATS is dependent on the scope of the tenant's request for services.

The following chart provides a sampling of three levels of service (i.e., small, medium, and large tenant) that is presently offered by MDAD:

Tenant	Type of Service	Number of Subscribers	Installed Costs	Actual Monthly Rental Fee (period 5/1/02 – 5/31/02)
Air Jamaica (small)	Telecommunications Access	6 Subscribers	$860.00	$206.88
Miami Airport Duty Free (medium)	Network Access	46 Subscribers	$15,690.00	$ 2,516.44
United Airlines (large)	Telecommunications Access	593 Subscribers	$99,297.00	$16,142.88

The requested delegation of authority is similar to that which has existed for standard form aviation leases for the use and occupancy of real property at MDAD facilities.

At present, there are fifty-five (55) tenants with existing SATS agreements with MDAD. These agreements must be renewed, and as MDAD takes additional tenants into service, it is expected the number of users of our telecommunications and data network system and resulting revenues will increase. Per the previous SATS agreement with NextiraOne, LLC[1], last year the MDAD received $267,000, which was based on ten (10) percent of gross revenues. Under the new non-exclusive management agreement with NextiraOne, LLC, approved by the Board on January 29, 2002, MDAD will receive all SATS gross revenues which last year totalled $2,670,024. This revenue is expected to increase based on new marketing initiatives presently under development.

[1] NextiraOne, LLC is the successor or assignee of Centel's rights and obligations (via Williams Communications Solutions, LLC) under both the ELM Agreement and the SATS Agreement.

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 6(A)(1)(A)
9-24-02

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
DADE COUNTY, FLORIDA

RESOLUTION NO. R-1091-02

RESOLUTION AUTHORIZING THE COUNTY MANAGER OR DESIGNEE TO EXECUTE AIRPORT RENTAL AGREEMENTS FOR AIRPORT TENANT TELECOMMUNICATIONS SERVICES AND NETWORK ACCESS; NEGOTIATE TERMS AND CONDITIONS; AND ISSUE RENEWAL AND DEFAULT NOTICES AND TAKE NECESSARY TERMINATION ACTION FOR FAILURE TO CORRECT DEFAULTS.

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby authorizes the County Manager or designee to: (i) execute the standard form of an airport rental agreement attached to the accompanying memorandum for shared airport tenant telecommunications services and network access; (ii) negotiate such terms and conditions as may be necessary on a tenant by tenant basis; and (iii) issue renewal and default notices and, in the instance of default, to take necessary termination actions for failure to timely correct defaults all in accordance with the agreement.

The foregoing resolution was offered by Commissioner Dorrin D. Rolle, who moved its adoption. The motion was seconded by Commissioner Gwen Margolis and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro	absent	Jose "Pepe" Cancio, Sr.	aye
Dr. Barbara Carey-Shuler	absent	Betty T. Ferguson	absent
Gwen Margolis	aye	Joe A. Martinez	aye
Jimmy L. Morales	aye	Dennis C. Moss	aye
Dorrin D. Rolle	aye	Natacha Seijas	absent
Katy Sorenson	aye	Rebeca Sosa	nay

Sen. Javier D. Souto absent

The Chairperson thereupon declared the resolution duly passed and adopted this 24th day of September, 2002. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: KAY SULLIVAN
Deputy Clerk

Approved by County Attorney as to form and legal sufficiency. dsh

David Stephen Hope

MIAMI-DADE AVIATION DEPARTMENT — Airport Rental Agreement

This Agreement is made as of _____, 20__ between Miami-Dade County (the "County"), a political subdivision of the State of Florida and _____, a _____ corporation/partnership/sole proprietorship (the "Customer"), conducting business at Miami International Airport ("MIA" or the "Airport").

1) Agreement. The County agrees to deliver, install, rent, and maintain telecommunications systems and services consisting of (1) switch access to its common telecommunications switching equipment and software which will be shared by the Miami-Dade Aviation Department ("MDAD" or the "Department") and its tenants at the Airport ("Switch Access"), (2) network access to the local telephone exchange carrier ("Network Access"), and (3) telecommunication terminal equipment and cabling when itemized and executed on Schedule I. Such equipment and services are described in the Equipment and Services Schedule I and Maintenance Schedule III attached hereto, including optional services and features and made a part hereof, (collectively, the "System") and the Customer agrees to rent the System (the "Rental") subject to the terms and conditions of this Agreement.

This Agreement is subject to credit approval by the County. The Customer agrees to cooperate with the County by providing all credit and financial information that may be required by the County. Upon the County's approval of the Customer's rental application, the Customer agrees to execute all documents relating to the Rental and promptly return them to the County. In the event all required and properly executed documents and advance payments are not provided to the County, the County may, in addition to other delineated rights and remedies delay cutover until such executed documents and advance payments are received and approved by the County.

2) Schedules. The attached schedules (the "Schedules") are part of this Agreement:

- Schedule I	Equipment and Services Schedule
- Schedule II	Acknowledgment and Certificate of Acceptance
- Schedule III	Maintenance Schedule

3) Installation.

a) The Customer will be responsible for, and provide or arrange for at its own expense (in a timely manner as required or directed by the County): (1) necessary floor plans and accessible System locations free from environmental hazards, (2) reasonable access for the County, (3) completed copies of database feature forms, (4) necessary conduit, holes and wireways, where not otherwise provided herein, and (5) easements and microwave licenses.

b) The System will meet Federal Communications Commission Part 68 regulations regarding connection to the public telephone network. The County will install the System in a workmanlike manner without damage to the Customer's premises, and will obtain necessary work permits to install the System. The County will not be responsible for removing any cabling or equipment of the Customer's old telephone system.

4) Force Majeure. The County's performance under this Agreement shall be excused to the extent and for the time compliance is beyond the County's reasonable control for reasons that include but are not limited to, strikes, work stoppage, fire, water, wind, acts of God, disruption in service for any cause, storms, lightning, delays by suppliers and subcontractors, delays of power company, delays of the local exchange company, interexchange carrier, or any other carrier, governmental action, or any Customer nonperformance such as (i) non-payment, or (ii) failure to execute an acceptance certificate or rental document.

5) Term and Acceptance. This Agreement shall be effective upon execution by the Customer and the County, but the term of this Agreement (the "Rental Term") shall commence on the "Commencement Date" (as hereinafter defined) and shall terminate on the last day of the Rental Term stated in Schedule I; provided, however, the Customer's indemnities, assumption of liabilities, and other duties, and all of the County's disclaimers herein shall survive the termination of this Agreement. The Customer shall be deemed to have accepted the System for all purposes of this Agreement, including the payment of rent hereunder, with the Customer's execution of the "Acknowledgment and Certificate of Acceptance" contained in Schedule II, attached hereto and made a part hereof. The date of execution of the Acknowledgment and Certificate of Acceptance shall be the Commencement Date under this Agreement. The Customer shall execute the Acknowledgment and Certificate of Acceptance, with the County's completion of installation and pre-operational testing and first connection of the equipment to the public telephone network in a manner permitting calls to be made through the System (the "Cutover").

6) Payment of Rent. The rent for the System (the "System Rent") shall be as listed in Schedule I and shall be payable, without notice or demand, pursuant to said Schedule.

7) Cancellation. After paying the first twelve (12) monthly payments under this Agreement including twelve (12) months of payments for any additions, the Customer may cancel this Agreement by giving sixty (60) days written notice to the County and by paying a cancellation fee equal to: (a) seventy percent (70%) of the unpaid System Rent, AND (b) three (3) monthly payments for Switch Access and Network Access. With the County's prior written approval, the cancellation fees will be waived, if this Agreement is assigned to a MIA tenant who assumes all the obligations of this Agreement.

8) Training. The County will provide instruction and training in the use of the System, to employees of the Customer for a reasonable time (not to exceed thirty (30) days) after the Cutover.

9) Maintenance. The County will maintain the System in good repair, and will provide the necessary parts and labor to maintain the System as provided in Schedule III, provided the Customer is current on its payments hereunder and is otherwise in compliance with terms and conditions of this Agreement. The Customer's SOLE AND EXCLUSIVE REMEDY for the County to correct a defect in the System is limited to the County's performance under this Section 9.

The County's duty to maintain the System:

a) Excludes any service in connection with maintenance or repair of the equipment caused by negligence, theft or unexplained loss, abuse, connection to foreign power, fire, water, wind storms, lightning, acts of God, acts of public enemies, improper wiring, installation of equipment, items, material, or software by the Customer or third parties, failures or changes resulting from local exchange company, failures or changes resulting from local power company, failures or changes resulting from other transmission providers, or repair or alteration of the equipment or software by anyone other than the County, and

b) requires that Customer maintain a suitable operating environment for the System.

BY CUSTOMER REQUEST, REPAIRS NECESSITATED BY ANY OF THE EXCEPTED CAUSES IN SECTION 9(a) ABOVE, SHALL BE PERFORMED BY THE COUNTY AT ITS THEN PREVAILING RATES. THIS MAINTENANCE AGREEMENT IS IN LIEU OF ANY WARRANTY OR OTHER OBLIGATION, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY AGREEMENT OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE COUNTY DISCLAIMS ANY WARRANTY TO PREVENT UNAUTHORIZED USE OF THE SYSTEM INCLUDING TOLL FRAUD.

10) LIMITATION OF LIABILITY: THE COUNTY WILL BE LIABLE FOR PHYSICAL INJURIES TO INDIVIDUALS AND DAMAGES TO TANGIBLE PHYSICAL PROPERTY (OTHER THAN THE SYSTEM WHICH IS COVERED BY THE MAINTENANCE PROVISIONS OF THIS AGREEMENT) CAUSED BY THE COUNTY'S NEGLIGENCE. IN NO EVENT HOWEVER WILL THE COUNTY AND ITS CONTRACTORS, SUBCONTRACTORS, OR SUPPLIERS BE LIABLE FOR: (A) ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES; (B) COMMERCIAL LOSS OF ANY KIND (INCLUDING LOSS OF BUSINESS OR PROFITS); OR (C) ANY DAMAGE OF ANY KIND RESULTING FROM UNAUTHORIZED USE OF THE SYSTEM INCLUDING TOLL FRAUD. THIS LIMITATION SHALL APPLY TO ANY CLAIM OF THE CUSTOMER WHETHER BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE OF THE COUNTY, ITS EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, AND SUPPLIERS, STRICT TORT OR ANY OTHER LEGAL THEORY WHETHER OR NOT THE COUNTY OR ITS EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, OR SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS.

11) Title. The County shall retain title to the System and the Customer shall have no interest in the System other than the rights acquired as a customer hereunder. The Customer acknowledges the County may affix to and maintain on such System identifying labels indicating the County's ownership. The System shall remain County personal property and not become a fixture or part of any Customer real estate regardless of the manner in which it may be installed or attached. If requested by the County, the Customer will, at the Customer's expense, furnish a landlord and/or mortgagee waiver with respect to the System. The Customer shall protect and defend the County's title, and, at the Customer's expense, keep the System and parts thereof free and clear of all liens, encumbrances and security interests other than those arising through the County, and shall not permit the County's rights or interest hereunder to be subject to any lien, charge or encumbrance, including but not limited to (a) any lien of the owner of real property upon which the System is installed; or (b) of any purchaser of, or future creditor obtaining a lien on, said real property. The Customer shall give the County immediate notice of any attachment or judicial process affecting any item of the System.

12) Use of the System(s), Interference and Regulations. The Customer shall use the System(s) with [illegible] and only for [illegible] The Customer may only use the System at the location set forth in Schedule I. The Customer's use of the System shall conform with all applicable federal, state and local [illegible]

Additional Terms and Conditions

13) Alterations and Attachments. The Customer shall not permit any equipment or other items or material (the "Other Equipment") or software (the "Other Software") to be used on or in connection with the System, which does not meet the specifications of the manufacturer of the equipment in the System. All Other Equipment and Other Software which may be used on, or in connection with, the System shall be acquired and installed by the Customer at Customer's own expense and risk. The County makes no representation concerning the compatibility of any such Other Equipment and/or Other Software for use with the System.

Without the prior written approval of the County, at the end of the Rental Term, the Customer must remove any additions to the System not otherwise subject to this Agreement (the "Additions") made by Customer during the Rental Term, and restore the System, at the Customer's expense, to its original condition, reasonable wear and tear only excepted. In the event the Customer fails to remove an Addition, it shall become the property of the County.

14) Indemnification. The County will be responsible only for physical injury to persons (including death) and damage to tangible physical property to the extent caused by its negligence during delivery, installation, or maintenance of the System, and which is reported to the County in writing within sixty (60) calendar days of the incident.

The Customer shall indemnify and hold harmless the County and its officers, employees, agents and authorized representatives, and instrumentalities from any and all claims, liabilities, losses, damages, and causes of action, including attorney's fees and costs of defense, which may arise or be incurred as a result of claims, demands, suits, causes of actions, or proceedings of any kind or nature arising out of, relating to, or resulting from the performance of this Agreement by the Customer or its employees, agents, servants, partners, principals, or subcontractors, except to the extent such act is caused by the County's negligence. The Customer shall pay all claims and losses of any nature whatsoever in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may be issued thereon. The Customer expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Customer shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and authorized representatives, and instrumentalities as herein provided. Nothing contained in this Section 14 shall be construed so as to require the Customer to indemnify the County's employees, agents, and authorized representatives for their own negligence.

15) Return of System. Upon termination of this Agreement, excepting equipment covered under a renewal agreement, the Customer will make the System available for removal which shall be accomplished in a careful and reasonable fashion by the County. The System will be returned to the County in the same condition as originally installed, ordinary wear and tear excepted, or the Customer will pay for the restoration of the System to such condition. The County shall not be obligated to restore the premises to its original condition. If the Customer does not return the System or make it available for removal by the County, then in addition to all other remedies in this Agreement, the County has available all other remedies available at law or equity. All obligations of the Customer under this Agreement shall remain in force and effect until the System is returned to the County.

16) Events of Default by the Customer. The occurrence of any one or more of the following events (an "Event of Default") shall constitute a default under this Agreement:

a) Failure by the Customer to pay any Installment of System Rent or any other amount payable hereunder as and when the same becomes due and payable and the continuation of such failure for a period of ten (10) calendar days thereafter;

b) Failure by the Customer to perform or observe any other term, covenant or condition of this Agreement or any Schedule, or the inaccuracy in any material respect of any representation, warranty or statement made by the Customer in this Agreement, any Schedule, or any document or certificate furnished to the County at any time, which such failure or inaccuracy shall continue for a period of ten (10) calendar days after notice from the County;

c) dissolution, termination, or discontinuance of the Customer's business (including, without limitation, the death of the proprietor if the Customer is a sole proprietorship or the death of a general partner if the Customer is a partnership), the sale of substantially all of the Customer's assets, or the sale or pledge of the controlling interest in the Customer;

d) the Customer's insolvency, the appointment of a receiver for any property of the Customer, assignment by the Customer for the benefit of creditors, admission by the Customer in writing of its inability to pay its debts as they become due, or the commencement of a proceeding under any bankruptcy, reorganization, or similar laws by or against the Customer or any property it possesses, or if the Customer enters into an agreement of composition with its creditors; or

e) the attempted sale by the Customer of a System or any part thereof, or the issuance of any levy, seizure, or attachment thereon or pertaining thereto.

17) Remedies of the County. At any time after the occurrence of an Event of Default, the County may exercise any one or more of the following remedies:

a) The County may, upon seven (7) days written notice, terminate this Agreement with respect to any System, or portion thereof, or all of the Systems.

b) The County may demand and recover from the Customer all System Rent and other amounts then due;

c) The County or its agents may take possession of any portion or all of the Systems, wherever the same be located, on reasonable notice, without any court order or other process of law and without liability to the Customer for any damages occasioned by such taking or possession, and any such taking or possession shall constitute a termination of this Agreement, and whereupon all rights and interest of the Customer to possess and use the Systems shall absolutely cease, but the Customer shall remain liable as provided herein;

d) The County may demand the Customer return any System or portion thereof, or all of the Systems to the County in accordance with this Section 17 herein; and

e) The County may pursue any other remedy available at law or in equity, including, without limitation, seeking damages, specific performance and/or an injunction. None of the remedies under this Agreement is intended to be exclusive but shall be cumulative and in addition to any other remedy referred to herein or otherwise available to the County in law or in equity. Any repossession or subsequent sale or lease by the County of any portion of the System shall not bar any action for a deficiency as herein provided, and the bringing of any action or the entry of a judgment against the Customer shall not bar the County's right to repossess any System or portion thereof, or all of the Systems.

18) County Event of Default and Customer Remedy. The Customer may terminate this Agreement upon thirty (30) days written notice in the event of the County's material breach of this Agreement. Such written notice shall identify the material breach(es) and provide a reasonable time to cure in the notification to remedy the cause(s). The County has fifteen (15) days to cure the cause of the termination (the "Cure Period"). Such Cure Period commences the day after the thirty (30) day written notice period runs. The Customer may extend the Cure Period. This shall be the Customer's exclusive remedy.

19) Insurance. In addition to such insurance as may be required by law, the Customer shall maintain during the term of this Agreement the following insurance:

a) Public Liability Insurance on a comprehensive basis, including contractual liability, products, and completed operations, in an amount not less than $1,000,000 combined single limit, per occurrence for bodily injury and property damage. Miami-Dade County must be an Additional Insured with respect to this coverage.

b) Automobile Liability Insurance coverage for all owned, non-owned and hired vehicles used in connection with this agreement in amounts not less than $300,000 combined single limit per occurrence for bodily injury and property damage.

c) Property Damage. The Customer will bear the risk of loss or damage to the leased equipment for the replacement cost and will reimburse the County for any damages to the equipment.

The insurance coverage required shall include those classifications, as listed in the standard liability manuals, which most nearly reflect the operations of the Customer in this Agreement. All insurance policies required herein shall be issued by companies authorized to do business under the laws of the State of Florida. The companies must be rated no less than "B" as to management, and no less than "V" as to strength in accordance with the latest edition of "Best's Insurance Guide", published by A.M. Best Company, Inc., or its equivalent as approved by the Miami-Dade County Risk Management Division.

Prior to the commencement of operations hereunder, and annually thereafter, the Customer shall furnish certificates of insurance to Miami-Dade County Aviation Department and the Risk Management Division, which certificates shall clearly indicate: (1) the Customer has obtained insurance in the type, amount and classifications as required for strict compliance with this Section 19; (2) any material change or cancellation of the insurance shall not be effective without thirty (30) days prior written notice to the County; and (3) that Miami-Dade County is named as an Additional Insured with respect to the Public Liability coverage.

The County reserves the right to require the Customer to provide such reasonably priced insurance coverage as it deems necessary or desirable upon issuance of notice in writing to the Customer, which notice shall be delivered to the Customer at least thirty (30) days prior to such notice. Compliance with the foregoing requirements shall not relieve the Customer of its liability under any other portion of this Agreement.

20) Taxes. The Customer will pay all taxes and governmental charges of the County that are assessed against the County during the term hereof.

Additional Terms and Conditions

21) County's Performance of the Customer's Obligations. If the Customer fails to perform any of its obligations under this Agreement, the County may perform any [illegible] make any payment which the County deems necessary for the maintenance and preservation of the Systems and the County's title thereto. All sums so paid by the [illegible] (together with all related "Late Payment Charges", as hereinafter defined) and reasonable attorney's fees incurred by the County in connection therewith shall be additional System Rent immediately due and payable by the Customer to the County. The performance of any act or payment by the County shall not be deemed a waiver or release of any obligation or default on the part of the Customer.

22) Severability. Any provision of this Agreement prohibited by the laws of a state shall, as to such state, be ineffective to the extent of such prohibition but shall not affect the other provisions of this Agreement.

23) Amendments and Waivers. This Agreement and the Schedules constitute the entire agreement between the County and the Customer with respect to the rental of the Systems, and supersede all previous communications, understandings, and agreements whether oral or written, between the parties with respect to such subject matter. Any representations, warranties or statements made by an employee, salesperson, agent, or authorized representative of the County and not expressed in this Agreement are not binding upon the County. No provision of this Agreement may be changed, waived, or amended except by written agreement signed by both the County and the Customer, except that the County may insert the serial number of any portion of a System on the applicable Schedule after delivery of such portion of the System and the County may insert the Commencement Date for this Agreement after receiving the Acknowledgment and Certificate of Acceptance.

24) Late Payment Charge. In the event the Customer fails to make any payments, as required to be paid under the provisions of this Agreement, within ten (10) calendar days of the due date, interest at the rate established from time to time by the Miami-Dade Board of County Commissioners and/or Florida Statutes (currently set at one and one-half percent (1½%) per month), shall accrue against all such delinquent payment(s) from the original date due until the Department actually receives payment. The right of the County to require payment of such interest and the obligation of the Customer to pay same shall be in addition to and not in lieu of the County's rights to enforce other provisions herein, including termination of this Agreement, or to pursue other remedies provided by law.

25) Assignment. The Customer shall not assign this Agreement without the County's written consent. No assignment or transfer of any sort shall relieve the Customer of its obligations hereunder. The County may assign any rights under this Agreement to an affiliate or any other assignee, and the Customer agrees to execute any documents that such assignee may reasonably require. The Customer acknowledges that if this Agreement is assigned to a governmental entity, the indemnity obligations under Section 14 herein may not apply in full to such assignee.

26) Applicable Law. This Agreement shall be governed by, construed and enforced in accordance with the applicable laws of the County, including (a) the rules and regulations of the Department, (b) Chapter 25, Code of Miami-Dade County, Florida, and (c) operational directives issued thereunder, in addition to all additional laws, ordinances, administrative orders, regulations, and rules of the federal, state, and local governments, and any and all plans and programs developed in compliance therewith, which may be applicable to the operations of this Agreement.

27) Customer's Representations. The Customer represents that this Agreement is a lawful, binding and valid obligation of the Customer enforceable in accordance with its terms and has been duly authorized, executed and delivered by the Customer, and that all information concerning the Customer's financial condition which has been or will be supplied to the County is and will be true and correct.

28) Notices. All notices, demands and other communications shall be transmitted in writing by hand delivery or by United States Mail, addressed to such party set forth below or at such other address as may be subsequently submitted by written notice of either party. Notice given pursuant to this Section 28 shall be deemed effective four (4) days after the date it is mailed or upon receipt, whichever is earlier.

For the Department:

Manager, Information Services Division
Miami-Dade Aviation Department
PO Box 592075
Miami, Florida 33159-2075

For the Customer:
[Billing Customer Name] _____
[Customer Address] _____
[City, State & Zip Code] _____
[Billing Contact] _____
[Telephone Number] _____

29) Miscellaneous.

a) If the Customer uses a purchase order or similar document to order a System or addition thereto, the Customer acknowledges that the terms and conditions of such purchase order or document shall not apply and that the terms and conditions of this Agreement shall exclusively apply thereto.

b) The waiver by either party of any default will not operate as a waiver of any subsequent default.

c) The Customer will pay all of the County's costs or expenses, including reasonable attorney's and collection fees, incurred in enforcing this Agreement.

d) Any modification must be in writing and executed by an authorized representative of the party against whom enforcement is sought.

e) This Agreement shall be binding upon and inure to the benefit of the County and the Customer and their respective successors and assigns.

f) Rights to be Exercised by Department. Whenever in this Agreement rights are reserved to the County, such rights may be exercised by the Department.

Additional Terms and Conditions

30) Terms and Execution.

a) This Agreement binds the Customer when it is executed by the Customer and binds the County when executed by the County and delivered to the Customer.

b) This Agreement allocates the risks of the System's delivery, installation, operation and maintenance between the County and the Customer. The County has provided the Customer a favorable rent in return for the County performing all delivery, installation, and maintenance obligations. This allocation is recognized by both parties and is reflected in the System Rent. The Customer acknowledges that it has read this Agreement, understands it and is bound by its terms.

c) The Customer agrees that the County shall not be obligated under this Rental Agreement if the federal, state, or county statutory or regulatory authority permitting the County's performance hereunder is withdrawn, abridged, or amended so as to preclude the effective delivery by the County of services hereunder. In such event, the County shall notify the Customer in writing and the Customer's sole obligation thereafter shall be to compensate the County for the equipment and services rendered by the County to date.

Miami-Dade Aviation Department	Customer
By:	By:
Title:	Title:
Date:	Date:

MIAMI-DADE AVIATION DEPARTMENT — Equipment and Services Schedule I

Rental # _____ Date: _____

With respect to the certain Airport Rental Agreement dated _____ ____, 20__ (the "Agreement") between the County and _____ (the "Customer"), the County and the Customer agree to incorporate the following additional terms and conditions into said Agreement:

1) Location: Miami International Airport

2) Rental Term: _____ (___) months

3) Payment: The Customer shall pay to the County the total rental (which includes maintenance) for the Rental Term of the Agreement, which shall be the total amount of all rental payments set forth on this Schedule, plus any such additional amounts as may arise hereunder or pursuant to any additions hereto as described in Paragraphs 11 and 12 of this Schedule. Except as otherwise specified in this Schedule, rental payments pursuant to this Schedule (each monthly payment of System Rent) shall be made and shall be due and payable in advance on the first day of each calendar month during the Rental Term; provided, however, that the Customer shall pay to the County the first monthly System Rent payment with respect to the System when the Customer delivers to the County the Schedule I and Schedule II executed by the Customer. In the event the Customer does not accept the System for any reason, the County shall be entitled to retain such payment, in addition to its other rights hereunder, unless the parties agree in writing to the contrary. All amounts due hereunder from the Customer shall be paid to the County by check, in immediately available funds, at the address of the County as set forth in the Agreement or at such other place as the County shall designate in writing. Whenever any payment (of System Rent or otherwise) is not made within ten (10) days of the date when due hereunder, the Customer shall pay the "Late Payment Charge" (as defined in Section 24 of the Agreement), calculated from the eleventh (11th) day after the due date to the date of actual receipt of payment.

4. System Rent: _____ Dollars ($_____) (Monthly System Rent during Rental Term: $_____ per month during the term of this Agreement, except as it may be increased or decreased by amendment or by an inflation and/or utility company adjustment, plus applicable taxes. Unless otherwise specified, telephone numbers, directory listings, and all other charges of the local exchange company or any interexchange carrier are not included in the rental price unless indicated on a schedule. No cabling, wiring, or other items are included unless specifically listed in this Agreement and indicated on this Schedule.

5) Security Deposit: The Customer shall pay two (2) months rent as a security deposit, that shall be held as long as the Customer is current on its System Rent and applicable taxes, and that shall be returned without interest to the Customer at termination of this Agreement. If not current on either System Rent or applicable taxes, the County may deduct from the Security Deposit any and all amounts due from the Customer under the Agreement. The Customer must maintain the two (2) month rent security deposit amount balance, and must tender to the County the amount needed to maintain this threshold, if a deduction or deductions are made by the County.

6) Estimated Commencement Date: _____ ____, 20__.

7) Attachments: The following Schedules are attached to and made a part of this Agreement: Schedules I, II, & III.

8) Installation: The total amount due for installation of the System is _____ Dollars ($_____) plus applicable taxes. This amount is due and payable on the Agreement execution date and is non-refundable.

9) Maintenance Hours: The County will respond to System failures during the hours specified by the maintenance plan chosen by the Customer (see Schedule III).

10) Equipment and Features: The equipment and features subject to the Agreement are set forth below:

1)	Switch Access	$	/month
2)	Network Access	$	/month
3)	System - Terminal Equipment	$	/month
4)	System - Other	$	/month
	Monthly Rent	$ (See Attached quote #_____)	

(A continuation sheet may be added if more room is needed)

11) Pre-Cutover Changes: In the event that additions and/or deletions to the equipment and/or features described in Section 10 above are made in accordance with the Agreement before the Commencement Date, the monthly Rental shall be adjusted by the charge caused by applicable Installation Change Notices ("ICNs"). The County and the Customer hereby agree that any ICN executed by the Customer and delivered to the County in accordance with this Section 11 shall constitute an amendment to the Agreement and this Schedule, thereby adding to each such document the descriptions and rental information with respect to the equipment and the software included in such ICN.

12. Post-Cutover Changes: If the Customer wishes to add additional County equipment and/or features to the System (excluding however, minor equipment and/or features with maintenance related thereto which the Customer purchases from the County for cash), during the Rental Term of the Agreement, the Customer shall add additional equipment and/or features to the Agreement on such terms as the County and the Customer may agree in a Customer Service Order ("CSO") executed by the County and the Customer, and such equipment and/or features shall become, upon amendment of the Agreement and acceptance by the Customer pursuant to the Agreement, subject to the terms of the Agreement, provided the Customer is not in default under the Agreement and has not suffered a material adverse change in its financial condition since the execution of the Agreement. Pricing for additions may be adjusted for changes in tax laws and regulations.

The term of the Agreement for all CSO additions will commence on the date when such CSO additions are first operated as part of the System and shall have a term of sixty (60) months unless stated otherwise on this Schedule.

13) Renewal: If the Customer is not in default under this Agreement, the Customer can either (a) renew this Agreement on its termination at the then current market monthly rate or (b) return the System to the County. Negotiation of any such renewal can be initiated by the Customer's written notice of its willingness to negotiate a renewal not earlier than one hundred twenty (120) days but not later than sixty (60) days prior to the end of the Rental Term; the Agreement can be automatically renewed at the County's discretion for a minimum period of one (1) year if a renewal is not finalized. Renewals will be at the price and on the terms and conditions of the County in effect at the time of renewal unless otherwise agreed to in writing by the parties.

14) Miscellaneous: All terms defined in the Agreement shall have the same meaning herein.

IN WITNESS WHEREOF, the parties hereto have caused this Schedule to be executed by their duly authorized representatives and this Schedule shall be incorporated into and made a part of the Agreement.

Miami Dade Aviation Department	Customer
By:	By:
Title:	Title:
Date:	Date:

M[illegible] AVIATION DEPARTMENT **Acknowledgment and Certificate of Acceptance Schedule II**

T[illegible] Aviation Department

T[illegible] _____ acknowledges, represents and warrants to the

C[illegible] equipment subject to the Rental Agreement dated _____ _____, 20__

b[illegible]nty and the undersigned: (a) has been delivered, installed and subjected to all necessary pre-

op[illegible]g; (b) has been inspected; (c) is operating in accordance with the manufacturer's specifications

(d)[illegible] used or made available to be placed in service for its specifically assigned function for the first

time[illegible] the date indicated below as the "Commencement Date"; and (e) was first connected to a public

[illegible] in a manner permitting calls to be made through the equipment to and from the facility in which

the [illegible] located on such Commencement Date.

Comme[illegible]encement Date: _____

Custom[illegible] _____

By _____

Title _____

Dated _____

The maintenance plan features the following services:

1. Types of Failures:

Troubles reported by the Customers will fall into two categories: a) Major Failures, and b) Minor Failures.

a Major Failures are those that severely impede the ability for a Customer to conduct business at the Airport and shall be defined as an occurrence of any of the following:

1. A failure of the telephone switch, its common equipment or power supplies which renders it or them incapable of performing normal functions for five percent (5%) or more of the stations or trunks.
2. A failure of network components that will render over five percent (5%) of work stations inoperable

b. Minor Failures are any other failures including a failure of any ancillary equipment such as intercom circuits, paging input arrangement, or any other telecommunications equipment or component

2. Response and Repair Time:

Based on the trouble classification, the response will be in the following manner:

a Major Failure- Immediate response during business hours (Monday-Friday, 7 A.M. – 11 P.M., Eastern Time) and within two (2) hours for off hours (Monday-Friday, 11 P.M. – 7 A.M., Eastern Time, and twenty-four (24) hours a day Saturday, Sunday, and holidays).

Remedial maintenance will begin immediately for a major malfunction, which may consist of remote diagnostics during the first fifteen (15) to thirty (30) minutes, after the repair notification time by the Customer, via the service provider tracking processes with the appropriate service ticket number, however if not corrected, the service provider's personnel must be on-site no less than forty-five (45) minutes during business hours and no less than two (2) hours during off hours from the repair notification time. Repair work shall start immediately and continue until the problem is resolved. All commercially reasonable efforts will be made to complete repairs within eight (8) hours from the time the Customer reported the incident.

b. Minor Failure - Response within eight (8) business hours.

Repairs not defined as a major failure will begin as expeditiously as possible, and all commercially reasonable efforts shall be made to complete repairs within one (1) business day from the time the Customer reported the incident. Repairs may be made by a certified technical personnel either through a premise visit or via electronic access through the use of a remote maintenance terminal. However, in all cases, the repair must be confirmed and the status updated by the next business day by notification to the service provider. Response to minor service interruptions will take place within eight (8) business hours

"Respond" is equated to having technical support and/or troubleshooting the problem within aforementioned times. Note that during the troubleshooting process, the service provider is coordinating directly with the Customer until the problem is resolved.

3. Miscellaneous:

- All parts and labor are included, unless the failure is due to abuse or misuse of the equipment or facilities
- Preventive maintenance routines are included.
- Utility coordination with the local telephone company and other common carriers are provided
- Consultation services on the Customer's system are included.
- User training (beyond that provided in Section 8 of the Agreement) is optional, and at an additional cost
- Traffic studies to determine adequate system utilization (not to exceed two (2) annual Customer requested studies) are included.

Exhibit G

Miami Airport Communication Services

MACS

5 Year Marketing Plan

February 6, 2002

MAY 2, 2002
→ Pedro Did you read this?
We are spending $. Million
for 3 bullet items?

5/2/02
- Simone: set up a meeting w/ me & Pedro to discuss.
-ss Return to him for I made notes on almost every page!

Bill McGlashan

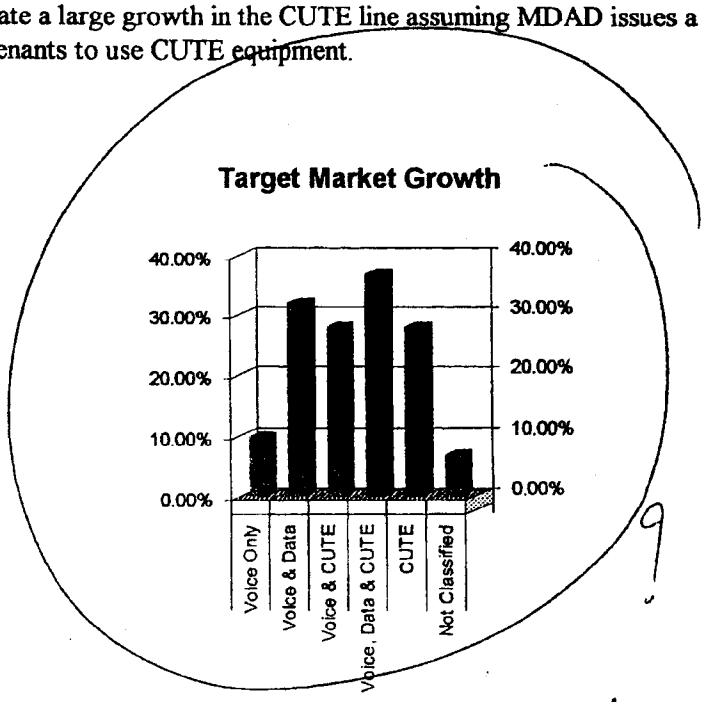
NextiraOne Account Manager

1.0 Executive Summary

Overall we see the number of potential customers in our markets growing at about 8-9% per year, over the next few years. However, short term there is flat to negative growth while the industry is recovering from both the 9/11/02 disaster and the general economic downturn. We see our potential at MIA to grow the customer base over the next few years to double the number of customer served in some capacity.

The next big wave is high speed connectivity to the WAN and Internet, and wireless connectivity. The growth figures in these areas are spectacular. According to Harper's Internet Index, there are now 57 million Internet users in the United States, and that number has doubled in two years. The growth in high speed cable modems and DSL connections is 10 to 20 percent a year over the past few years. Wireless access in still in its infancy, but is expected to double in three years.

We anticipate a large growth in the CUTE line assuming MDAD issues a directive requesting all airline tenants to use CUTE equipment.



2.0 Situation Analysis

Before we talk about strategy for future development, we have to understand where we are, and where we've been. Strategy is about playing towards strengths and away from weaknesses. Marketing is about understanding our target markets and target market needs.

Therefore, we begin this section with our market analysis, looking in detail at our target market and market needs. Then we develop our SWOT analysis, looking at strengths, weaknesses, opportunities, and threats. Afterwards we finish up with a look at some other key factors of the present situation.

9

2.1 Market Summary

MACS focuses on SATS tenants in Miami-Dade Airport, with special focus on the airlines and the CUTE (Common Use Terminal Equipment) customers.

We have broken our markets into groups according to standard classifications used by the former company; SATS (Shared Airline Tenant Services) and CUTE.

Exact definitions of these market segments are not necessary for our marketing planning purposes here; general definitions will suffice. We know SATS customers are users of ~~our~~ your voice and/or data networks, wanting high-end systems options; people who rely on mission critical networks. We also know that ~~our~~ CUTE customers tend to be smaller airlines with no permanent gate locations, are more likely to need and want hand-holding, and more likely to pay for it.

Target Markets

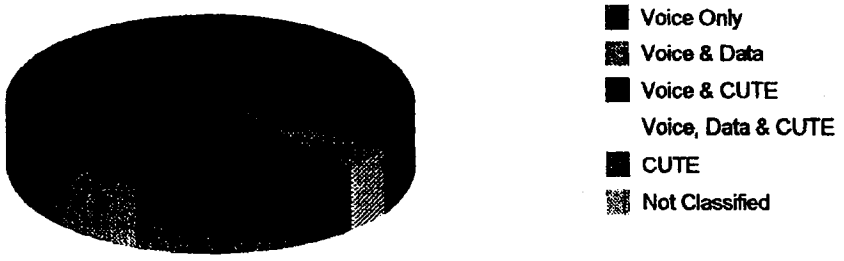


Table 2.1: Target Market Forecast

Target Market Forecast Potential Customers	Growth	2002	2003	2004	2005	2006	CAGR
Voice Only	10%	13	14	15	17	19	9.95%
Voice & Data	10%	1	3	3	3	3	31.61%
Voice & CUTE	20%	3	5	6	7	8	27.79%
Voice, Data & CUTE	15%	2	4	5	6	7	36.78%
CUTE	20%	9	14	17	20	24	27.79%
Not Classified	10%	22	22	24	26	29	7.15%
Total	15.83%	50	62	70	79	90	15.83%

What is not classified

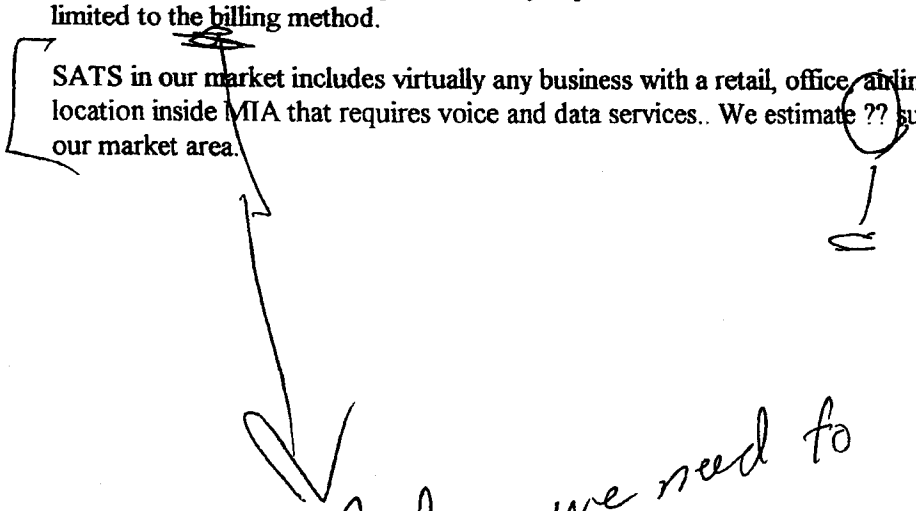
How did you get this #

2.1.1 Market Demographics

The CUTE Services opportunity at MIA are an important market segment. Our estimate in this plan for the CUTE Services in our market service area is based on an analysis of the total airlines at MIA verses the total number of airlines and the multiple construction projects. It is also assuming MDAD backs the wholesale usage of CUTE in place of the existing dedicated airlines terminal equipment.

CUTE Services include several options, some of which we do not offer today. For our plan, all options will need to be explored to fully expand the service within MIA including but not limited to the billing method.

SATS in our market includes virtually any business with a retail, office, airline or professional location inside MIA that requires voice and data services.. We estimate ?? such businesses in our market area.



Pedro we need to Discuss.
What will happen w/ Cute Bid hits the street.
Will nextira play a role..

2.1.2 Market Needs

Our target customers are on average more dependent on reliable information technology than any other business. They care more about reliable service and confidence than about the rock-bottom lowest price. They don't want to rely solely on their own expertise, so they choose to deal with us instead, with our promise of service and support when needed.

Our standard customers will be voice and data installations, with networks needs, and will generally be smaller systems than the average large business. Telephone, fax modems, voicemail, and data network connections are likely system component additions they will desire. They will run their own applications.

explain

It's important that we realize we won't be selling to the price-oriented buyers. We'll be able to offer an attractive proposition to the service-oriented and security-oriented buyers only. Our customers prefer to focus on what they do best - run airlines, and are looking to outsource their communications requirements.

Our target SATs are very dependent on reliable information technology. They use their computers for a complete range of communications within the business and outside of the business, and for personal productivity and as such need reliable networks on both LANS and WANS. Most are not, however, large enough to have dedicated computer personnel such as the MIS departments in large businesses to deal with network issues. They also require voice capabilities. Ideally, they come to us for a long-term alliance, looking to us for reliable service and support to substitute for their in-house people. These are not businesses that want to shop for rock-bottom prices through the bid process. They want to be sure they have reliable providers of expertise. We will need to offer more options to these customers rather than just a rental agreement.

Our standard CUTE will be 1-5 unit installations, critically dependent on LANs, WANs, and the terminal equipment itself. Back-up, training, installation, and ongoing support are very important. They require immediate repair for problems. However, there does exist a desire by the larger airlines to pursue the CUTE environment which allows flexibilty in their operations.

Pedro see me

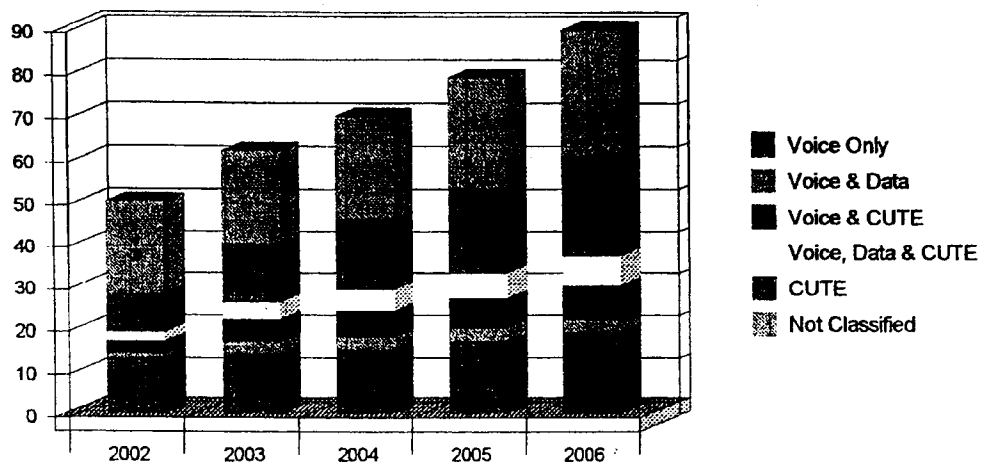
2.1.3 Market Trends

The SATS customers are accustomed to buying equipment directly from vendors who visit their offices. They expect the copy machine vendor, office products vendors, and office furniture vendors, as well as the local graphic artist, freelance writer, or whoever, to come visit the office to make their sales. They understand leasing of equipment, and maintenance contracts for service. They do not seem well versed in the needs to rent equipment, advantages, etc.

CUTE customers are used to paying license fees for the software used in terminals. They are not used to rental equipment.

All MIA customers are faced with the same problem: a reduction in revenue and a needed reduction in expenses. The current trend in marketing to any airline customer or related business to to assist them through this slow down period in reducing expenses without jeopardizing service and reliability.

Market Forecast



2.2 SWOT Analysis

As we look at our SWOT analysis to follow, we are in a sustainable overall position. We have strengths to balance our weaknesses, particularly our knowledge of what our customers need in terms of connectivity, the Internet, LANs, voice products, and CUTE services. We also have some attractive opportunities in these same areas of maintenance service. However, we have an inherent weakness in competing against price-oriented competition from the major vendors.

2.2.1 Strengths

1. Knowledge: Our competitors are RBOCS and interconnects, pushing boxes and base telco services. We know systems, networks, connectivity, infrastructure, all the MIA and county issues.
2. Relationship selling: We get to know our customers, one by one. Our on site sales/marketing force maintains this relationship. The MDAD relationship can only assist in these relationships.
3. History: We've been at MIA forever. We have loyal customers. We are local.
4. Service: We are a proven vendor, and well respected at MIA.

2.2.2 Weaknesses

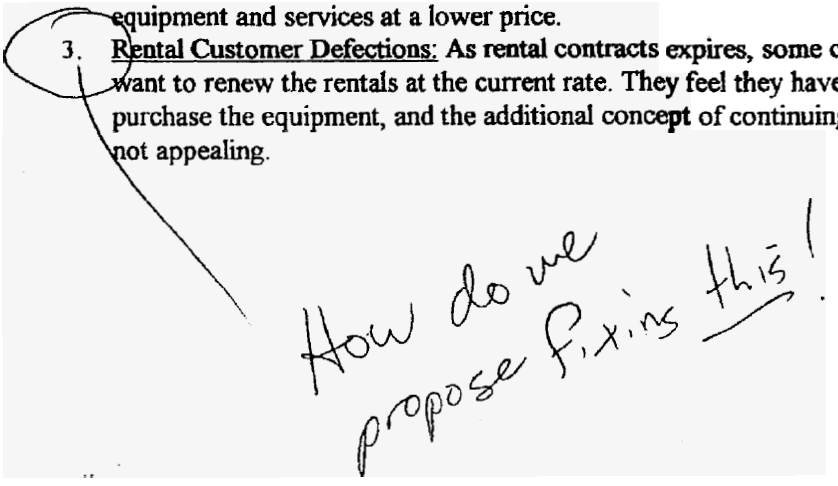
1. Costs: The competition has better economics for both boxes and telco services. Their per-unit costs of selling are quite low as compared to MDAD. They aren't offering what we offer in terms of knowledgeable selling, but their cost per dollar of sales are much lower.
2. Price and volume: The other players pushing boxes can afford to sell for less. Their base line costs are less and they have volume buying with the main vendors.
3. Brand power: Take one look at their full-page advertising in most local publications, their name recognition through television advertising, and their local sponsorship of events. We can't match that. We don't have the name that flows into big time advertising.

2.2.3 Opportunities

1. Temporary Service: With the vast amount of construction going on, it may be beneficial for organizations to rent equipment on a short term basis.
2. CUTE: More airlines are recognizing the value of CUTE services at other airports. They are additional services from SITA that we need to pursue for MIA to increase our sales position with the larger airlines.
3. Equipment Sales: Some tenants will never rent equipment, they will only purchase capital items either with cash or through leasing. The opportunity exists for **MACS** to sell equipment to tenants. We may decide to accomodate them.
4. Service: As our target market installs equipment purchased from us or other vendors, we are in a great postion to service the equipment with very little incremental costs. Our business model focuses on service.
5. Network Access Service: MACS should explore selling T-1, PRI and DSL type services to airport tenants. The issue should not just be pricing, but the opportunity to sell the service as a fully redundant network. That is something other providers can not offer at a reasonable price.

2.2.4 Threats

1. Economic Conditions: The economic conditions bought about with the recession and the September 11th attack has generated an overall downturn in the travel industry.
2. The lower price competitors: Most competitors will be in the position to offer both equipment and services at a lower price.
3. Rental Customer Defections: As rental contracts expires, some customers will not want to renew the rentals at the current rate. They feel they have paid enough to purchase the equipment, and the additional concept of continuing to pay for cable is not appealing.



2.3 Competition

Our long tenure at MIA indicate that our SATS customers consider price but they would buy based on quality customer support and service if the offerings were positioned correctly. Price is the message they're exposed to again and again; they have been trained to shop on price. We have very good indications that many would willingly pay 5-10% more for a relationship with a long-term vendor who provides quality service and support. They end up in the box-pusher/service provider channels because they aren't aware of the alternatives that in the past we have not be willing to offer.

Service availability is also very important. The tenants tend to want immediate solutions to problems. Consequently, they can be subjected to high-pressure, undertrained salespeople who may not be able to factor in all of a customer's needs and make promises that are not delivered.

The CUTE buyers understand the concept of service and support, and are more likely to pay for it when the offering is clearly stated.

There is no doubt that we compete more against all the service providers (BellSouth, Worldcom, etc.) than against other box pushers . We need to effectively campaign against the idea that businesses should buy equipment from vendors that don't needed onsite service, support, and training.

2.4 Products Offered

Pedro - want Orlando's pricing structure.

In SATS, we support one main line today, rental of voice and data equipment.

We need to expand these offerings to include three main lines:

- Purchase of voice and data equipment, either with cash or leasing.
- Maintenance of voice and data equipment within standard product lines regardless of the purchasing location or vendor
- New service rates for ports and cabling infrastructure.

In CUTE, we offer a package thatr includes both the terminal equipment and the necessary software. We need to investigate other options of pricing for usage, perhaps on a per ticket basis. We also need to investiagte offering a different wireless product suite to customers.

In all cases, customers can receive training on a going forward basis for a price. We offer all move, add and change services for both voice and data.

2.5 Keys to Success

The main key to success with SATS and CUTE customers is positioning the service clearly. Many potential buyers would prefer our offering to the competition if only they possessed adequate information to conduct a value-added cost/benefit analysis placing a high value on service and redundancy.

Word of mouth is critical in this segment. We will have to make sure that once we gain a customer, we never lose them. To help accomplish this, we must work to reinvigorate relationships through successful contact marketing, among other means. We must always remember to sell the MACS services, not the final product. They have to understand they are taking on a relationship with MACS, not just buying boxes.

2.6 Critical Issues

1. The most obvious critical issue is whether we can get over the price-oriented competition and sell our customers the idea of comparing us for the security and reliability we offer. Will our customers be willing to pay for what they need, or will they be led astray by the price-oriented positioning?
2. The second critical issue is whether or not we can redefine our business to emphasize the service and support our customers ultimately need. Can we stop focusing on price and selling equipment as a "me too"? We need to make that happen.
3. Issue number three is fulfilling the promise. None of what we're saying is any good unless we can deliver on it. Do we provide excellence in training, fulfillment, installation, and customization? We're promising to be a superior service provider. Are we?
4. Flexibility. In the past, we have not been flexible with our offerings or our pricing. We must, to a certain extend, view customers on one by one basis and assist them in solving there business problems.

3.0 Marketing Strategy

MACS will change its focus to differentiate itself from competitors and improve the business by satisfying the real need of the SATS and CUTE customers for reliable information technology including hardware and all related services.

3.1 Mission

MACS is built on the assumption that the management of local business units views information technology for business like legal advice, accounting, graphic arts, and other bodies of knowledge, in that it is not inherently a do-it-yourself prospect. Smart business people who aren't communications experts need to find quality vendors of reliable hardware, software, service, and support. They need to use these quality vendors as they use their other professional service suppliers, as trusted allies.

MACS is such a vendor. It serves its clients as a trusted ally, providing them with the loyalty of a business partner and the economics of an outside vendor. We make sure that our clients have what they need to run their businesses as well as possible, with maximum efficiency and reliability and to focus on their core strengths. Most of our tenants applications are mission critical, so we give our clients the assurance that we will be there when they need us.

3.2 Marketing Objectives

We need to focus our offerings on any airport tenant as the key market segment we should own. This means any tenant at any property owned by MDAD and leased to customers. Our values - training, installation, service, support, knowledge - are more clearly differentiated in this segment.

As a corollary, the CUTE market is also appropriate. We want to compete for all airlines regardless if they have in house systems by offering additional services they may not be able to employ due to their corporate limitations.

3.3 Financial Objectives

1. Increase our customer base by 45% over a five year period.
2. Increase sales revenues by 38% over a five year period.
3. Increase our CUTE offering to 50% of the total revenues.

3.4 Target Markets

We cannot survive just waiting for the customer to come to us. Instead, we must get better at attracting the specific tenants whose needs match what we have to offer. Focusing on tenants prior to their arrival at MIA is the key to our future.

Therefore, we need to finely craft our marketing message and our product offerings. We need to develop our message, communicate it, and make good on it.

3.5 Positioning

For tenants who need reliable systems and can't afford their own full-time support employees, MACS is their strategic voice and data ally. Unlike the our competitors that sell equipment and telco services, MACS is an ally to our clients' businesses, and offers them a full range of services from installation to maintenance, support, and training. One single point of contact for any communication issue.

For CUTE customers we offer the flexibility of gate information, consistent pricing, and emergency service not offered by anyone in the area.

3.6 Marketing Strategy Pyramid

We must differentiate ourselves from the competition. We need to establish our business as a clear and viable alternative for our target market, to the price-only kind of buying. We do this by promoting our value added resources.

We've developed two strategy pyramids, each based on one main fundamental strategy. The first strategy is about focusing on service and support, and the second strategy is about focusing on customer relationships instead of products. Each is explained in greater detail.

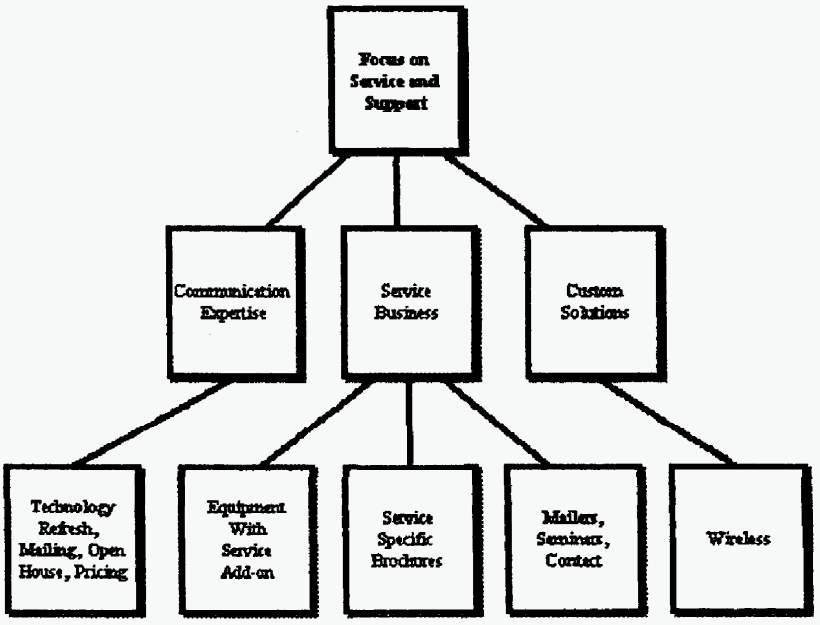
3.6.1 Focus on Service and Support

Our first pyramid, shown in the following illustration, is under the main strategy point of focusing on service and support instead of brand names and equipment.

As the illustration shows, our first tactic under that strategy is related to communicating expertise. The information highway is booming and reliability is key everywhere in our target market. Our competitors simply can't match us for going to our customers' locations and solving their communications problems. This is an excellent example of something we can give that our competitors can't, and our customers want. Our specific programs for this tactic include our technology refresh program, regular mailers to our customers, semi-annual open houses, and our revised pricing options.

Our second tactic is to sevice as a line of business. Programs include sell equipment to the customer with service add on, and developing sales and marketing programs intended to sell this type of service as the core of our business. This includes more mailers, a new price list, and program outlines and materials.

Finally, the third tactic is providing custom solutions. This generally links to our growing experience with applications that our customers utilize. Our only current sales and marketing program for this will be the airport wireless network for our customer's customer, the passenger.


Focus on Service and Support
Communication Expertise
Service Business
Custom Solutions
Technology Refresh, Mailing, Open House, Pricing
Equipment With Service Add-on
Service Specific Brochures
Mailers, Seminars, Contact
Wireless

3.6.2 Focus on Relationships

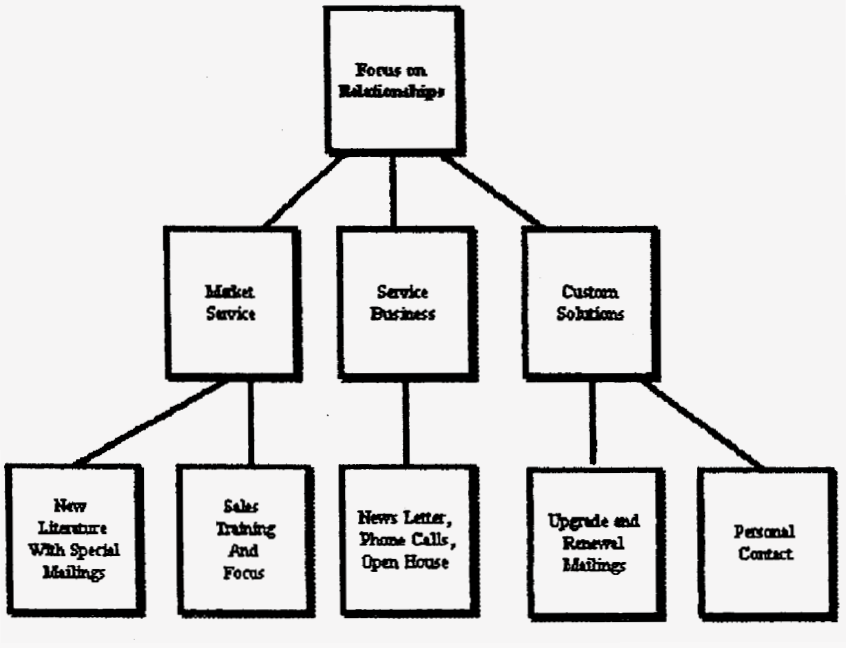
Our second pyramid, shown in the following illustration, is under the main strategy point of focusing on customer relationships. We need to be strategic allies to our customers and be their experts in communications systems, in a way that none of our competitors can ever hope to match.

This second pyramid has three main tactics:

The first tactic shown is about marketing the services, not the product. We all know what that means, that we should be emphasizing the relationship with us at MACS, instead of the brand-name on the packages such as BellSouth or Worldcom. We can't sell the brand names better than the others, but we can sell ourselves and the important differences we offer. Related programs include the complete re-creation of our company literature, additional sales training, and special mailers to our customers.

The second tactic is to make sure we have more customer contact. We can't afford to sit back like a large competitor and wait for our customers to come to us. We need to send mailings, emails, and telephone calls to make sure things are going right for them. Do they need additional voice or data services? A lot of customers do, and they're grateful for our reminders. Programs for this tactic include regular news letters about technology, open houses, and end user training. Being proactive will give us an edge over our competitors.

The third and final tactic is maintain our customer base. We work hard to find our customers, and our financial analysis shows that the most economic way to increase revenue is by focusing on our existing customers instead of finding new customers. That's new products, upgrades, and additional services. Planned programs for this tactic include upgrade mailings, service contract mailings, and personal contact.


Focus on Relationships
Market Service
Service Business
Custom Solutions
New Literature With Special Mailings
Sales Training And Focus
News Letter, Phone Calls, Open House
Upgrade and Renewal Mailings
Personal Contact

3.7 Marketing Mix

A core element of our marketing strategy is a change in the marketing mix. In terms of promotion, we need to sell our company as a differentiated strategic ally, not just our products. In price, we need to remain slightly higher than the competition and we need to be able to defend that. Our product marketing has to recognize more that our service and our relationship is the key to our future product marketing. We sell a relationship more than products.

3.8 Marketing Research

Research is an integral step in developing any marketing plan. We definitely need to know more about our customers. In the past we've been too distant, and perhaps too quick, to just guess about our customers, rather than conducting real research. For this plan we need to develop two new lines of market research:

1. Primary research on our own customer base. This doesn't have to be elaborate, but we do need to know more about our existing customers. Random telephone calls, through-the-mail surveys, and on site surveys may be appropriate. What do our customers think about us? How do they grade our services?
2. Secondary research on the Internet and in published magazines, etc. We think it's time to establish a process for going through published research to find out what's available about buying patterns and demographics, business needs, etc., for our main target users. We think there is a lot of information already available on these types, and much of it is readily available for a little bit of research.

4.0 Financials

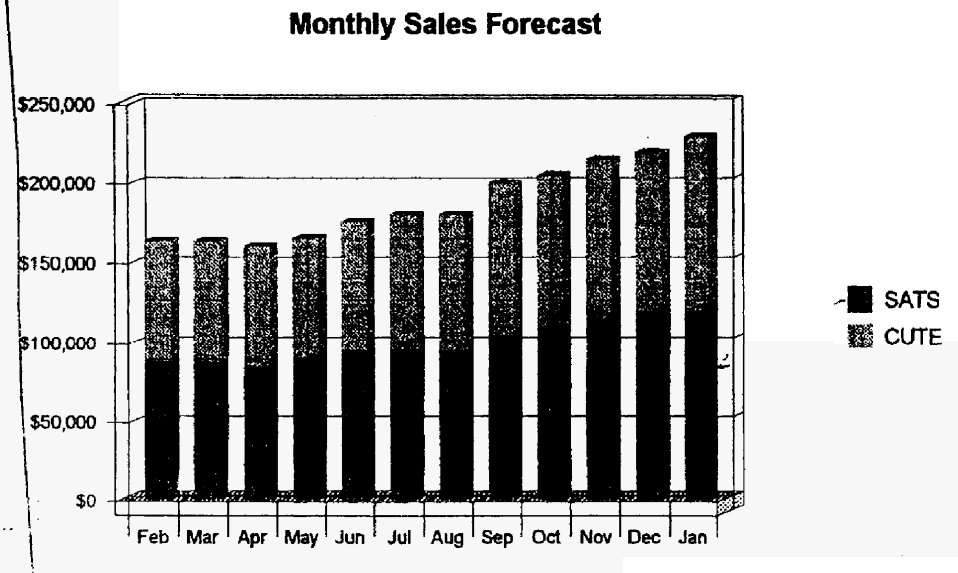
As the following details show, we need to improve our the number of customers and gross revenues. The business has been trending downward because we've been caught in price competition and current economic conditions. We need to reverse that trend.

4.1 Sales Forecast

The $2,231,000 sal
represents a modest
forecast, and we are sure we can make our numbers this year as a result of more effective marketing.

The data shows that we are not able to attribute our sales in any significant way to our sales and

Th
Muc
it back directly to a specific program.



5.0 Controls

1. Tracking and follow-up: Will we have the discipline, as an organization, to track results of the marketing plan and make sure that we implement?
2. Market segment focus: How can we be sure we have the discipline to maintain the focus?
3. Saying no: Can we say no to special deals that take us away from the target focus? Can we say no to unprofitable deals? Should we say no to profitable deals?

5.1 Implementation

When — when will I see A flier.

- Bill is in charge of the overall plan which includes the new services promotional flyer. We will be sending this out to all tenants. This is an all-year ongoing project so we don't list specific dates, just starting in April and ending at the end of November. Bill is also responsible managing the marketing plan.
- Holly, as Sales Support Consultant, will have some specific programs as well as the sales goals. We expect to see an increase in site visits by the end of May, and at least three new accounts by the end of the following month. Holly will also be managing any mailing programs we implement, with several specific milestones included.
- Sherri, as Network Consultant, will be managing any seminar programs we design for prospective clients. Sherri will also be responsible for keeping both the internal and external price lists up to date and investigating, from a technical perspective, any new product offering we may decide to pursue.

Milestones

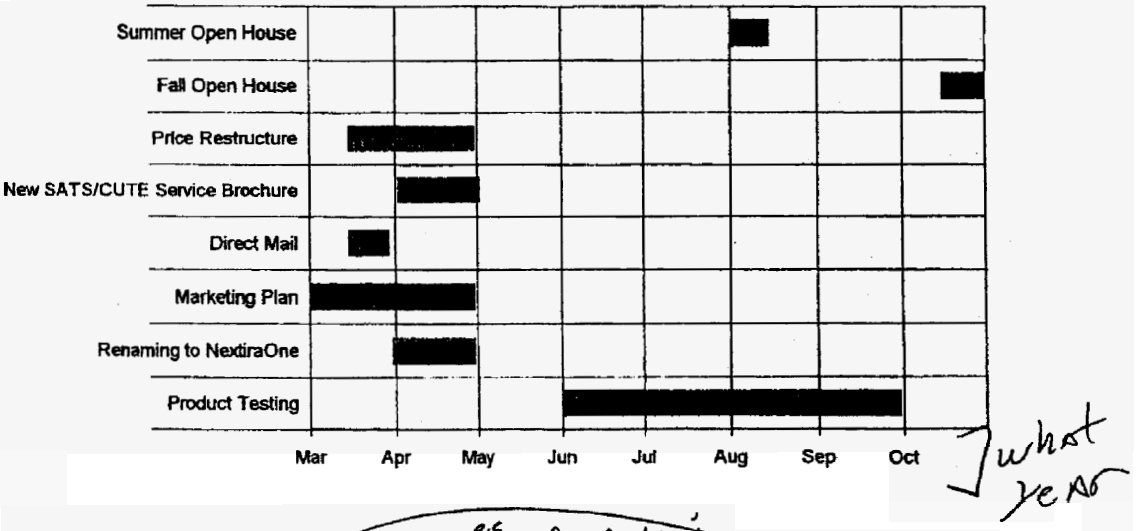


Table 5.1: Sales Forecast

Sales Forecast					
Sales	FY2003	FY2004	FY2005	FY2006	FY2007
SATS	$1,206,000	$1,326,600	$1,459,260	$1,605,186	$1,765,705
CUTE	$1,050,000	$1,127,500	$1,240,250	$1,488,300	$1,785,960
Total Sales	$2,256,000	$2,454,100	$2,699,510	$3,093,486	$3,551,665
Direct Cost of Sales	FY2003	FY2004	FY2005	FY2006	FY2007
SATS	$719,000	$850,000	$900,000	$950,000	$1,000,000
CUTE	$620,000	$900,000	$850,000	$1,200,000	$1,400,000
Subtotal Cost of Sales	$1,339,000	$1,750,000	$1,750,000	$2,150,000	$2,400,000

5.2 Marketing Organization

MACS is a small service of MDAD.

Bill, Account Manager, is responsible for general management. He specifically is responsible for sales and marketing as the lead of the organization.

Holly, our Sales Support Consultant, is responsible for managing the in-house calls, service requests, and customer contacts.. We will also put any mailing programs under Holly because they must be carefully coordinated with the follow-up by either marketing or operations.

Sherri, our Network Consultant, will be responsible for marketing programs including price lists, sales literature, MDAD pricing, technical support, new product review, etc.

5.3 Contingency Planning

1. We need to watch our results very carefully. We may need to overall the way we offer products and the type of services we offer. It isn't a bad option, to think that we might be able to avoid the straight competition with the major players by focusing more on our true value.
2. It's possible that the value-added position without hardware rentals could be a better way to go. We have to watch how the customer react and the possible rental revenue decline.

MDAD
SATS Consolidated
YTD Revenue

Quarterly Totals					Billing Period	Total Rental	Total Long Distance	Total Installation	Total Service & Repair	Total Revenue YTD
Total Revenue 1st Q					2/7/02-4/6/02	$331,714.86	$11,025.71	$7,689.05	$1,042.86	$351,472.48
Total Revenue 2nd Q					4/7/02-6/30/02	$508,408.32	$14,903.11	$28,084.59	$3,531.23	$554,890.60
Total Revenue 3rd Q					7/1/02-9/30/02	$168,724.94	$6,337.27	$4,031.18	$1,705.60	$180,801.55
Total Revenue 4th Q					10/1/02-12/31/02	$0.00	$0.00	$0.00	$0.00	$0.00
Total Revenue to Date					8/21/2002	$1,008,848.12	$32,266.09	$39,804.82	$6,279.69	$1,087,164.63
Monthly Totals	# of Customers	# of New Customers								
Monthly Revenue-FEB	56	0	0		2/7-3/6/02	$165,816.44	$4,797.90	$4,556.24	$100.00	$175,270.58
Monthly Revenue-MAR	55	0	-1	Midway Airlines-filed Bankruptcy	3/7-4/6/02	$165,898.42	$6,227.81	$3,132.81	$942.86	$176,201.90
Monthly Revenue-APR	57	2	0	Dato Electric; H&D Electric-new service	4/7-4/30/02	$169,401.72	$3,738.25	$13,333.31	$0.00	$186,473.28
Monthly Revenue-MAY	58	1	0	Matrix Systems-new service	5/1-5/30/02	$169,368.83	$5,405.78	$4,054.50	$0.00	$178,829.11
Monthly Revenue-JUN	58	0	0		6/1-6/30/02	$169,637.77	$5,759.08	$10,696.78	$3,531.23	$189,588.21
Monthly Revenue-JUL	56	0	-2	Dato Electric; H&D Electric-left Airport	7/1-7/30/02	$168,724.94	$6,337.27	$4,031.18	$1,705.60	$180,801.55

Exhibit H

IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION

CASE NO. 02-288688 CA 03

BELLSOUTH TELECOMMUNICATIONS,
INC., a foreign corporation,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political
subdivision of the State of Florida,

Defendant.

THE VIDEOTAPED DEPOSITION

OF

PEDRO J. GARCIA

100 SE Second Street
Suite 1200
Miami, FL 33131

Wednesday, December 15, 2004

10:05 a.m.- 1:15 p.m.

APPEARANCES

For the Plaintiffs:
MARTIN B. GOLDBERG, ESQ.
Lash & Goldberg LLP
100 SE Second Street
Suite 1200
Miami, FL 33131
SHARON R. LIEBMAN, ESQ.
BellSouth Telecommunications, Inc.
150 West Flagler Street
Suite 1910
Miami, FL 33130

For the Defendant:

DAVID STEPHEN HOPE, ESQ.
Office of Miami-Dade County Attorney
Miami International Airport
Terminal Building
Concourse A, 4th Floor
Miami, FL 33122

ALSO PRESENT:

DENISE SOSA, Legal Assistant
CARLOS LOPEZ, Videographer

- - - - -

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THE VIDEOGRAPHER: Stand by. We're on the video.
THE REPORTER: Would counsel announce their appearances for the record?
MR. GOLDBERG: For the plaintiff, BellSouth Telecommunications, Martin Goldberg, law firm of Lash & Goldberg, present for the plaintiff.
Also for the plaintiff present is Sharon Liebman, in-house counsel for BellSouth. And also present in the room for the deposition is our paralegal from Lash & Goldberg, Denise Sosa.
MR. HOPE: David Stephen Hope, Assistant County Attorney, on behalf of defendant Miami-Dade County.
(Witness sworn)
THE WITNESS: I do.
THEREUPON:
PEDRO J. GARCIA,
a witness named in the notice heretofore filed, having been first duly sworn, deposes and says as follows:

DIRECT EXAMINATION
BY MR. GOLDBERG:
Q Good morning, Mr. Garcia, how are you?
A Good morning, well, thank you.
Q Good. We are here for another deposition in the case of BellSouth Telecommunications versus Miami-Dade County.
For the record, you've been deposed in other contexts before in this case, correct?
A Correct.
Q So you're familiar with the process of being deposed, that's fair to say, correct?
A Yes, Sir.
Q Just as a shortcut, just want to remind you that you're under oath this morning. I will be asking you questions. If at any time I ask you a question that you don't understand, please do not answer the question; rather, I'd like you to tell me that you don't understand the question or it's confusing so that I can have an opportunity to rephrase the question so that you do understand it.
Is that okay with you?
A Yes, it is.
Q With that groundwork then, any time

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that you do answer a question we will all assume in this room, as well as anybody who watches the videotape that's being prepared today or reads the transcript that's being prepared today, we will all assume that you understood the question and answered it truthfully and completely and in a non-misleading manner, because you are under oath.

Is that okay with you?

A Yes, it is.

Q Okay, if at any time you need to take a break for any reason or to consult with Mr. Hope, who is your attorney, the County's attorney here today, please let me know and we'll accommodate you.

A Okay.

Q I want to show what has been marked as Plaintiff's Exhibit Cert, C-e-r-t, -1. All the exhibits will be Cert, standing for certification, starting with 1 through and including whatever number we get up to.

This is the Notice of Taking Videotape Deposition --

MR. HOPE: Thank you.

BY MR. GOLDBERG:

Q -- that has been issued for this

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particular deposition proceeding.

Have you seen this document before?

A Yes, I have.

Q Are you here pursuant to this Notice of Taking Videotaped Deposition which calls for the corporate representative of Miami-Dade County designated pursuant to Rule 1.310 with the most knowledge concerning all facts related to Miami-Dade County's decision, including knowledge of all persons who participated in making the decision, not to submit an application for certification, including but not limited to a Certificate of Public Convenience and Necessity, and/or to provide Shared Tenant Services to the Public Service Commission pursuant to a number of Florida statutes?

Are you here as the County's corporate representative pursuant to this designation I just read?

A Yes, Sir.

Q And I may have forgot because I'm so familiar with you since you've been deposed today -- or before, can you just identify yourself by name and spell your last name, and then we'll do a little bit of background?

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A My name is Pedro J. Garcia, G-a-r-c-i-a.

Q How are you presently employed?

A I'm employed by the Miami-Dade Aviation Department, which is the department of Miami-Dade County, and I am the Chief of Telecommunications for the Miami-Dade Aviation Department.

Q How long have you been in that position?

A Approximately a little over four years.

Q How long have you been working at the County in total?

A About 15 years.

Q Can you describe generally your duties in your current position that you've occupied for the last four years?

A My position is responsible for the -- providing the voice -- I mean telephone services, the data network, public address system, the flight information displays at the airport, the wireless services, beepers, cell phones.

And generally that's -- the dynamic signs outside the roadway at the airport. That's it.

Q Prior to your current position, since you've been with the County 15 years, what was

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the previous position you occupied?

A I was a position of -- I forgot what the title is, but it's equivalent to what I have now, it was like Chief of Telecommunications.

Basically I was heading a group of engineers responsible for the installation of telephone systems in all the county buildings.

Q How long did you occupy that position?

A Oh, 11 years.

Q In your current position who is your direct superior or boss?

A It's Maurice Jenkins. He's the Manager of Information Systems/Telecommunications.

Q Who does Mr. Jenkins report to?

A He reports to Bobbie Phillips, she's the Assistant Director for Administrative Services.

Q Who does Miss Phillips report to?

A Miss Phillips reports to -- to be honest with you, I'm not sure if she reports directly to the director of the airport or to some deputy director, because they've been hiring some folks recently and I'm not sure how that reporting is going.

Q If there is a deputy director,

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Miss Phillips would report to that deputy director, is that fair to say?
A If it's in line with her responsibility, yes.
I think that's what they're striving to do, I'm not sure exactly what -- the new deputy director started last week, I'm not sure if she reports to him or not.
But that would be the. . .
Q And then is it fair to say that that deputy director, if he or she is in the chain of command here, reports to the director of the airport?
A Yes.
Q Who is currently the director of the airport?
A It's an interim director because the director resigned or -- about a month ago, and the name of the interim director is Carlos Bonzon, B as in boy, -o-n-z-o-n.
Q Notwithstanding this hierarchy, going back to the Notice of Deposition, the County has designated you to be the corporate representative with the most knowledge of the issue raised in the notice, that being what I'll summarily refer

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to as certification?
A Yes.
Q How was that designation accomplished? Or in other words, how were you designated to appear today pursuant to this Notice of Taking Deposition?
A Well, we had a discussion, and between my boss, Mr. Jenkins, and Mr. Hope, and basically the recollection of the events that -- regarding the certification that we -- basically what went on regarding the certification about three years ago, four years ago, it was deemed that I knew as much as anybody else about this event that took place.
And that was -- it was decided for me to come here.
Q You understand, since you are appearing as a corporate representative, that you have an obligation as a corporate representative to appear with the most knowledge that the County -- or the County can infuse you or provide you with the requisite knowledge to answer the questions at this deposition today?
Do you understand that?
A Not exactly.

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Q Okay, well let me ask it another way: Other than whatever personal knowledge you have with respect to this issue, what have you done to prepare for answering the questions at this deposition today?
A Like I said before, we had a meeting with my boss, Mr. Jenkins, and we talked about, to the best of our recollection, what took place regarding this certification issue about three or four years ago, and it was decided that I knew as much as anybody else about this -- what took place then.
Q All right, let's talk about that meeting first, then I'll go back to any additional preparation.
First, when did that meeting take place between you, Mr. Jenkins and Mr. Hope?
A Monday.
Q Would that be Monday, December 13th?
A 13th, right.
Q And today, just for the record, is December 15th, on Wednesday?
A Correct.
Q Where did the meeting take place?
A In Mr. Hope's office, in the conference

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room.
Q Just for the record, Mr. Hope is the attorney here today, he's an Assistant County Attorney, correct?
A Yes, Sir.
Q How long did the meeting take place?
A Maybe 20 minutes, half-hour.
THE REPORTER: Keep your voice up, please THE WITNESS: 20 minutes, half-hour. I'm sorry.
BY MR. GOLDBERG:
Q Did you review any documents during that meeting? And I just want a yes or no answer.
A No.
MR. GOLDBERG: Mr. Hope, are you taking the position that that meeting was a privileged meeting?
MR. HOPE: Yes.
BY MR. GOLDBERG:
Q Outside of that 20-minute meeting that you had with Mr. Hope and Mr. Jenkins, what other preparation have you undertaken to answer the questions here at this deposition?
A None whatsoever.
Q Can I ask why you haven't undertaken

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any additional preparation to respond to questions posed during this deposition pursuant to the notice marked as Cert-1?
A There was really, in my opinion there was nothing to prepare, because there was really not that much that went on regarding this issue.
Q Have you reviewed any of your prior testimony given in this case prior to today?
A I should have, but I have not. I haven't had the time.
Q Let me show you what's been marked as Plaintiff's Exhibit Cert-2. This is the County's Answer and Affirmative Defenses to the Second Amended Complaint filed in this case, is that correct?
A I have no idea. This is legalese to me, I don't know what a second amended complaint is, so. . .
MR. GOLDBERG: Well, let me do it this way: Can I ask for a stipulation from Mr. Hope that this is the County's Answer and Affirmative Defenses to the Second Amended Complaint that the County filed in this case?
MR. HOPE: So stipulated.

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MR. GOLDBERG: Thank you.
BY MR. GOLDBERG:
Q And just for your frame of reference, if you look at the first page of the document, does it not say Miami-Dade County's Answer and Affirmative Defenses to Second Amended Complaint?
A Yes, it does.
Q Okay, so that's English and not legalese, correct?
A That's the first three lines here, but I don't know what the Affirmative Defenses to Second Amended Complaint, I have no what that is.
Q Okay, let me direct your attention to paragraph 12 of this answer that's been filed by the County on page 2, and does it say at paragraph 12 that the County admits providing shared airport tenant services to airport tenants at Miami International Airport?
MR. HOPE: Before he answers that, I think he probably should see the Second Amended Complaint so he can see the paragraph 18, so he understands completely what the answer refers to.
MR. GOLDBERG: Okay, do you have the Second Amended Complaint here?

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MR. HOPE: Sure, I do. Are you going to enter it?
MR. GOLDBERG: That would be great.
MR. HOPE: I have a marked-up version, so this one can't come in.
MR. GOLDBERG: Okay, well, you want to go grab the Second Amended Complaint? That's fine.
Why don't we go off the record right now while we get the Second Amended Complaint?
THE VIDEOGRAPHER: Going off the record.
MR. HOPE: Sure.
(Recess)
MR. GOLDBERG: Go back on the record. Since the counsel --
THE VIDEOGRAPHER: Sorry, let me queue it up. Back on the record.
BY MR. GOLDBERG:
Q Prior to the break your counsel asked that you be shown a copy of the Second Amended Complaint in this case, particularly paragraph 18, so what I've done is we have retrieved the Second Amended Complaint, I've marked it as Cert-3.

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I can direct you to paragraph 18, why don't you review that? And then I'm going to come back to my question. Let me know when you've reviewed it.
A Okay.
Q And while you're reviewing the Second Amended Complaint why don't you also review paragraph 34? That would relate to an additional question I'll ask in a few seconds.
A Okay.
Q Going back to, again directing you to Exhibit Cert-2, the County's answer in this case that's been filed, at paragraph 12 does not the County admit to providing shared airport tenant services to airport tenants at Miami International Airport?
A Yes.
Q And let me direct your attention to the answer again at paragraph 18 of the County's answer, does not the County admit at paragraph 18 that it has not submitted an application to the Florida Public Service Commission to obtain the certificate of public convenience and necessity?
A Yes.
Q If you could, Mr. Garcia, I'd like you

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to outline for the Court in this case, or any other third party or entity that views this videotape or reads this deposition, each and every reason why the County has not applied for a certificate of public convenience and necessity from the Florida Public Service Commission.

A To the best of my recollection, what took place three or four years ago was that the question came up about the whole certificate issue, and I remember myself reading the Florida statutes regarding the airport section to shared tenant services, we talked to the -- our counterparts at the Orlando airport -- International Airport in Florida, and basically based on -- I also looked through the application that -- to apply for the certificate, just to see what kind of questions were needed to be answered to apply to that certificate, and basically based on those two inputs, basically the documents that we read from the PSC and the information we obtained from Orlando airport, it was deemed that there was really no need for the airport to apply for the certificate, because of the exception that is granted by the PSC according to those two inputs.

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Q Now in your answer you I believe told me a little bit about the process or, you know, the circumstances involved in making this decision, and I will get to that later.

My question was, I'd like you to list for me, first, second, third, what the reasons were why the County decided not to file an application for certificate of public convenience and necessity from the Public Service Commission.

A Okay, the Florida -- the pertinent Florida statutes that refer to this area, which I don't have the number in my head right now, I recall specific it stated that the airports are exempt from getting certificates for this service as long as the service is used for the safe and efficient and protection of the airport, the passengers and cargo operating the airport.

Also, secondly, the information that we received from the Orlando staff was that they had been involved in some case regarding this certificate with the PSC, and also in their opinion they never obtained the certificate, even though they're providing the same services or similar services that are offered at the airport to tenants, and they felt that they -- there was

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no need for any airport to obtain that certificate.

Those are basically the two reasons.

Q **Other than -- well, strike that.**

So the first reason, if I understand you, is that the County determined that the airport exemption rule applied, and therefore relieved the County of any obligation to apply for a certificate of public convenience and necessity, is that correct?

A Yes.

MR. HOPE: Objection to form.

BY MR. GOLDBERG:

Q And the second reason you've given is that Orlando airport -- was based on your conversations with the Orlando airport?

A Right.

Q Are there any other reasons, factual or otherwise, that were considered in making the County's decision not to apply for a certificate from the PSC?

A Not to my knowledge.

Q Well, you understand as a -- appearing as a corporate representative that it was your obligation to obtain all the facts and knowledge

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with respect to that decision that was made, correct?

A Correct.

Q **Okay, so** -- and you also understand as the corporate representative what you say here today binds the County as a party in this case, correct?

A Correct.

Q **So when** you say not to your knowledge, are we all correct to assume that that's not to the County's knowledge?

MR. HOPE: Objection to form.

THE WITNESS: It's to my knowledge.

BY MR. GOLDBERG:

Q When was this decision made not to apply for a certificate from the PSC?

A I can't recall a specific date. Like I said, we were -- there was some investigation done regarding these two issues that I mentioned before, the Orlando and the reviewing of the PSC documents, and at some point the issue just died.

It was no, not really -- there was no meetings, there was no formal decision, there was no letter, there was no memo, it was just not -- we went on to other things and didn't pursue the

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matter.
Q Again let me go back to my question, when approximately --
A Three or four years ago.
Q Who was involved in any manner, shape or form in making this decision and/or considering the two reasons that you've given?
A If it was -- it was -- my boss was obviously involved in this, Mr. Jenkins, and it was basically at the time I didn't even -- I don't think I even met with Mr. Hope at the time of this.
It was just basically, it was an informal thing between me and my boss. I don't know whether he actually spoke to anyone else.
And I basically -- it was a process that it was by omission, I guess, we didn't pursue the matter any further.
Q So if you had to list out for me the people who were involved in making the decision, who would they be, please?
A Just me and Mr. Maurice Jenkins.
Q Nobody else?
A No.
Q Was that discussion reviewed with

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anybody else at the County?
A Like I said, it was not a decision that somebody told me: Let's not do it. It was just by omission. It was not -- I was not told to do it, so it just died.
I went on to other things.
Q Is it your testimony under oath today that Mr. Hope, the Assistant County Attorney, was not involved in that decision?
A It is my -- what I'm saying is that I don't recall having direct conversations with Mr. Hope at the time on this issue.
I don't really know if he was involved in any manner. I don't recall having conversations with him on this issue.
Q Let me see if I can refresh your recollection on that point. Do you recall being deposed in this case on approximately May 21st of 2003?
A Not really, but I'll take your word for it.
Q Are you saying you don't recall appearing for a deposition that was taken by an attorney for BellSouth named Mitchell Bloomberg down in Coconut Grove in May of 2003?
A I recall being deposed at that

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location. I don't know exactly the date.
Q At page 20 of that deposition you were asked the following question and you gave the following answer:
"Question: Were you personally involved in any discussions concerning whether or not there was a certification requirement from the PSC?
"Answer: Yes, we had conversations, Maurice Jenkins and counsel and other people."
Now after reading that to you does that refresh your recollection as to whether or not Mr. Hope or any other counsel were involved in the -- making this decision?
A It's possible, maybe my mind was better at the time, it was closer to the event, it's possible that he could have been involved in the conversation.
I'm not saying that he wasn't. I just didn't recall at this time that he was. But maybe he was.
Q You would agree with me that your memory of these events was more likely better on May 21st, 2003, when you gave the deposition I

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just read from, than today in late 2004?
MR. HOPE: Objection to form.
THE WITNESS: Yes.
BY MR. GOLDBERG:
Q In refreshing your recollection, your answer on page 20 at lines 15 or 16 I just read to you referenced not only Maurice Jenkins, counsel, but, quote unquote, other people.
Does that refresh your recollection as to anybody else that may have been involved in the making of this decision not to apply for a certificate from the PSC?
A It refreshes my recollection that I probably said other people.
The reason I said other people is because I didn't remember whether -- who were those people or if there were any other people. It was just a general statement that it's possible, but I didn't recall.
Q Now back at the time this decision was being contemplated, did that -- isn't it correct that that coincided with the County's decision, resolution and transaction to purchase all of the assets of Nextira and take over the STS services provided at the airport?

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MR. HOPE: Objection to form.
THE WITNESS: Well, that agreement was signed effective 20 -- February 2002, I believe, so if the deposition as you mentioned was 2003, it was after the 2002 agreement.
BY MR. GOLDBERG:
Q No, my question is would you agree that the timing of your -- the County's decision whether to apply or not to apply to the PSC as you've testified to today coincided with the time period at which the County purchased the Nextira assets?
A It's within a few months of that event, yes.
Q Would you agree with me that it was the purchase of Nextira's assets that precipitated or caused the County to consider whether or not to file for a certificate with the PSC?
A I don't agree with what precipitated, but it was definitely an event that caused the review of a lot things, because we were, we were buying equipment and we wanted to make sure everything was the way it was supposed to be.
Q Well, then let me ask you in a more

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open-ended manner so that you can explain it to the Court, what caused the County through you, counsel, Mr. Jenkins, and perhaps others, to consider whether or not to file an application for a certificate of public convenience and necessity with the PSC?
A Well, it was more mostly try to get ourself educated, because the Nextira or -- was -- had been providing shared tenant services at the airport with the equipment that we were leasing from them, and since we were purchasing the equipment, we reviewed a lot of things to make sure, now that we were the owners of the equipment, that everything that had a relation to that was -- we needed to understand how it worked and whether we were meeting all the requirements, et cetera, of the operation.
Q And was one of the things that came into your consideration this issue about your obligations with the Florida Public Service Commission, including whether or not to file a certificate?
A Yes.
Q And that led to the decision we're talking about today, is that correct: the

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decision not to file?
MR. HOPE: Objection to form.
THE WITNESS: Right.
BY MR. GOLDBERG:
Q Are you aware of any documents, notes, or memoranda that were generated as a result of this decision-making process regarding whether to apply to the PSC for a certificate?
A Do you mean does it exist today?
Like I said, this was not a formal process, there was no memos, formal memos written from anybody saying do not do this, or asking whether we should do this.
It was mostly an information-gathering situation that, you know, I had -- I have the PSC documents in my files, and then we talked to the Orlando folks, and it was over the telephone conversation.
We went there to Orlando to visit and see what they were doing there, for that and other reasons, and spend the day there meeting with them and looking around the airport and see how they were doing, not only -- you know, different installations that they had.
And the result of all of that was the

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decision that we didn't need to apply for the certificate.
MR. GOLDBERG: Can you read back my last question, please?
Thank you.
(Record read by reporter)
BY MR. GOLDBERG:
Q Did you have an opportunity to listen to that question again?
A Yes.
Q Okay, I think it calls for a yes or no answer, of course you can explain, but could you begin with a yes or no answer as to whether there were any document as I phrased in the question?
THE WITNESS: Can you read the question again?
(Record read by reporter)
THE WITNESS: No, there's no -- as far as I remember there was no documents regarding the decision not to apply for the certificate.
BY MR. GOLDBERG:
Q There is no -- is there any analyses -- strike that.
So am I to assume that there is no

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analyses or written discussion prepared regarding the two reasons that you've given that went into making the decision?
MR. HOPE: Objection to form.
THE WITNESS: All I recall is having the PSC documents, which I've had for years, and I put some yellow markings on it and -- to the pertinent paragraphs, and I don't recall any formal documents regarding the decision or -- there could be, I just don't recall. It's been a while since I had that file. It was. . .
BY MR. GOLDBERG:
Q You said that this didn't involve a formal process, did I hear you correctly?
A Yes.
Q Does the County consider its legal obligations with respect to the Florida Public Service Commission as serious and important issues?
MR. HOPE: Objection to form.
THE WITNESS: Yes.
I just remembered, there could be the application form itself, I might still have that in my files. That's the

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one document that I remember reviewing.
BY MR. GOLDBERG:
Q You'd agree with me that whether or not the County complies with Florida statutes as it relates to the PSC or the Florida Public Service Commission's rules and regulations is a pretty important and serious issue, correct?
A Yes.
Q And you'd agree that the County would seemingly want to endeavor to ensure to the best of its ability to analyze and make every effort to comply with any obligations that may exist?
MR. HOPE: Objection to form.
BY MR. GOLDBERG:
Q Do you agree with that?
A Yes.
Q So then can you explain to me why the decision as to whether or not to apply to the PSC for a certificate was -- did not involve a formal process and was simply a couple of people getting together and looking at some documents in a very short period of time and, as you've testified, just sort of being dropped and never followed up on?
MR. HOPE: Objection to form.

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THE WITNESS: Can I explain why that happened? No.
BY MR. GOLDBERG:
Q Do you think, looking back, that it was an appropriate manner in which to make the decision
MR. HOPE: Objection to form.
THE WITNESS: The decision was made by the parties that had the most knowledge on the subject matter, based on information received and documents and discussing with Orlando, like I said, and I think it was a good decision based on fact. And that's all I can say.
I don't, you know, I don't know how much of a process that would have been appropriate, but we felt that we -- that the decision was made with the right facts and in the best interests of the County.
BY MR. GOLDBERG:
Q You said it was made by the proper parties. When you use the word parties, does that mean -- was that referring to you and Mr. Jenkins and counsel, as you recall that may or may not have been involved?
A Yes, that was what I was referring to.

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Q Do you have any -- and one of the reasons you've given -- the first reason you gave was an interpretation I guess of the airport exemption rule or a Florida statute/law, is that correct?
A Yes.
Q Okay, let me first ask you, do you have any legal training or experience, formal legal training or experience?
A No.
Q Does Mr. Jenkins have any formal legal training or experience?
A Not to my knowledge.
Q Have you ever appeared before the Florida Public Service Commission in any capacity in your career?
A No.
Q To your knowledge has Mr. Jenkins ever appeared before the Florida Public Service Commission in any capacity in his career?
A Not to my knowledge.
Q Have you ever written any documents which interpret the Florida telecommunications statutes or rulings and regulations in your career?

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A In my previous job I was -- part of my responsibilities was to be the liaison with the issues related to the Public Service Commission regarding provisioning of local service, interaction with Bell Companies and local service providers, and I've always been involved in this, it was part of my responsibilities, it was actually in my -- writing in my responsibilities: to be that person dealing with the regulatory matters.

Q And what years did you occupy that position?

A Eleven years, from the -- 15 years ago, I guess -- where are we at, 2003? So it's, do the math --

THE REPORTER: So what?

THE WITNESS: It's from I guess with, '88, somewhere in there.

BY MR. GOLDBERG:

Q **Have you ever dealt previously with** what you referred to as the airport exemption rule, prior to --

A **I've seen it, but I never dealt with** it.

I mean I had the document in my

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possession before I ever started working at the airport, but -- I remember reading it, but not involved in the sense that it was an issue that I was involved in, no.

Q Prior to this decision being made, other than reading the airport exemption rule, can you tell me what other experience you've had in working with that rule or analyzing that rule or applying that rule?

A None.

Q **Prior** to this decision being made in 2002 by the County can you tell me whether Mr. Jenkins had any prior experience with the airport exemption rule or worked with that rule or applied it in any manner, shape or form?

A I cannot answer that. I don't know.

Q **Are you aware of any experience** he had with that rule?

MR. HOPE: Objection to form.

THE WITNESS: I don't -- I'm not **aware of it, but I don't know.**

BY MR. GOLDBERG:

Q **Other than reading the** text of the airport exemption rule, were you aware then of any other legal or factual authority that

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supported your interpretation of the airport exemption rule?

A Well, Orlando Airport provided information, because I believe they were involved in a legal process with the Public Service Commission, and we had discussions and they provided opinions regarding our situation based on their own experiences.

Q Other than the Orlando Airport discussion, which we'll talk about later, is there any other legal, factual or other authority that supported your interpretation of the airport exemption rule, leading you not to file an application for a certificate?

A No.

Q **Since** the time of making that decision have you been made aware or are you knowledgeabl about any legal, factual or other authority that supports the County's decision not to file an application for a certificate with the PSC?

A Not any -- no, I'm not aware of any new information since that time. I have not reviewed that subject matter.

Q **Prior to the decision being made as to** whether or not the County should file an

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application for a certificate, did the County receive any legal opinion to support your position or decision not to file?

A **You mean from outside, other than the counsel present?**

Q Any legal opinions.

A **I really can't say whether** the County received any legal opinion from counsel, because he might have said something when I wasn't present.

But we didn't receive any opinions from anybody outside, other than the -- our counsel.

Q Since the time the decision was made not to file an application in 2002, has the County received any legal opinion that you're aware of that supports that decision?

A Not to my knowledge.

Q **Has the County received** any legal opinion that goes contrary to that decision?

A Not to my knowledge.

Q **Prior to the time the** County's decision was made not to file an application with the PSC in 2002, did the County make any attempts to contact the Public Service Commission to review whether or not the PSC believed that the County

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needed to file a certificate?
A Not to my knowledge.
Q Since the time the decision was made by the County in 2002 not to file an application for a certificate with the PSC, has the County in any manner, shape or form made an effort to contact the PSC to revisit or review that prior decision?
A I believe there has been one contact made by my boss, perhaps, to some member of the PSC. Maybe they exchanged some e-mails, one e-mail. It wasn't a formal -- there was a contact, it wasn't a formal thing.
But I never saw the, I never saw the documentation or the e-mails.
Q Going back to two questions ago, just to make sure the record is clear, did you -- strike that -- were you involved in any communications with the PSC regarding whether to file an application for a certificate, either before the decision was made not to file or after the decision was made not to file?
A No.
Q Has the County filed any application with the Florida Public Service Commission for the provision of any telephone service at the

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Miami International Airport or any other airports here in Miami-Dade County?
A Not to my knowledge.
Q When you testified about the decision made to file or not to file a certificate, are you stating that it was the County's decision and the County's decision alone not to file a certificate?
MR. HOPE: Objection to form.
BY MR. GOLDBERG:
Q Did you understand my question? I'll withdraw it and I will ask it again.
When we have been speaking about the County's decision not to file a certificate with the PSC, I want to make sure the record is clear that that decision was made by the County and not by, or affected by any other third party such as Nextira or any other entity?
A Oh, no, it was definitely only the County making that decision.
Q And at that time in 2002 would you agree with me that it was the County's responsibility to make that decision as to whether or not to file or not file?
A Yes.

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MR. HOPE: Objection to form.
BY MR. GOLDBERG:
Q Let's talk about the two reasons that you've given. Let's take them one by one. The first reason you gave was that you believe that the Miami International Airport -- strike that -- that the County is relieved of an obligation to file a certificate with the PSC because of what you've called the airport exemption rule, is that correct?
A Correct.
Q What is it about the airport exemption rule that led you to believe that the County need not file a certificate?
A Well, it's the words that are stated in the PSC document that the airports are exempt from getting a certificate as long as the services are provided for the safe and efficient processing of passengers at the airport.
Q So is it your view that -- strike that.
Is there any other aspect of the airport exemption rule that you believe supports the County's decision not to have to file an application with the PSC?
A Well, it's the content of the document.

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I don't have the document in front of me, but there's a couple of places where there -- that is stated, and based on the document's content it was, it was deemed that that wasn't necessary
Q Let me show you what I've marked as Cert-4, which is a copy of what's been referred to in this deposition as the airport exemption rule, Rule 25-24.580.
Let me know when you've had an opportunity to review that.
A Yes, I have.
Q Now in your answers under oath at this deposition you have summarized, I will use the word, the first sentence of the airport exemption rule which says, and I'll read it: "Airports shall be exempt from other STS rules due to the necessity to ensure the safe and efficient transportation of passengers and freight through the airport facility."
A Right.
Q Correct? Is that the sentence that you relied on in making the decision not to apply for a certificate?
A That was one sentence. We basically relied on this whole paragraph that you just

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showed me here.
Q Well, what else in the paragraph are you relying -- were you relying on that supported your decision not to apply?
A It was deemed that the airport basically is complying with this whole paragraph.
Q Tell me how.
A Well, we have -- we serve a hotel; however, we are partitioning the trunks. We are not providing --
THE REPORTER: Serving a hotel?
THE WITNESS: We are serving -- we are providing services to a hotel, to the airport hotel, but we are partitioning the trunks, and we're not serving shopping malls and industrial parks.
And so therefore, according to what this paragraph says, we have the right to provide STS services without a certificate.

BY MR. GOLDBERG:
Q Any other reasons from the airport exemption rule that you believe support your decision?
A Not from this -- well, as far as this

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paragraph is concerned, we meet all those requirements.
Q Let me focus in on the second sentence of the airport exemption rule. It says: "The airport shall obtain a certificate as a shared tenant service provider before it provides shared local services to facilities such as hotels, shopping malls and industrial parks."
Did I read that correctly?
A Yes.
Q Now the airport provides shared tenant services to a hotel, correct?
A Correct.
Q And is it your testimony that, because you don't provide telephone service to a shopping mall or an industrial park, that there is no need to file a certificate?
MR. HOPE: Objection to form.
THE WITNESS: Right.

BY MR. GOLDBERG:
Q Can you explain to me how you've taken into account the wording of this sentence in reaching the conclusion that you just reached, where it says that before -- "The airport shall

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obtain a certificate as a shared tenant service provider before it provides shared local services to facilities such as hotels, shopping malls and industrial parks?
A Well --
Q And I emphasize, just for the record, the words "such as." Don't you read that to be non-limiting and meaning that the hotels, shopping malls and industrial parks are just simple examples of commercial entities?
MR. HOPE: Objection to form.
THE WITNESS: Well, but then you're missing the last paragraph which says, if the airport partitions its trunks, it shall be exempt from the other STS rules for service provided only to the airport facility.
So because we partitioned the trunks providing services to the hotel, that qualifies for providing the service without the certificate.
BY MR. GOLDBERG:
Q And we will discuss that and the third sentence in due course, we'll get there, I promise you. Let's go back to my question which

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you didn't answer.
You would agree with me, would you not, that the language of the rule that says facilities such as hotels, shopping malls and industrial parks is non-limiting, meaning that hotels, shopping malls and industrial parks are just examples of, quote unquote, these facilities?
MR. HOPE: Objection to form.
THE WITNESS: No, I don't agree with you, because the "however" right after that statement qualifies that statement that you just read, so you cannot take it on its own merit because the next sentence qualifies that statement.
BY MR. GOLDBERG:
Q So when you made the decision --
A Excuse me. Go ahead.
Q Just so I understand you, is it your testimony that when the County made the decision not to apply for a certificate to the PSC, that it read this sentence as only pertaining to hotels, shopping malls and industrial parks, and no other type of facility or commercial entity like that?
MR. HOPE: Objection to form.

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THE WITNESS: We read the statement that if we -- since we did not provide service to shopping malls and industrial parks, but we did provide to a hotel with partition trunks, we met the requirements of this paragraph.
BY MR. GOLDBERG:
Q So in your decision -- strike that.
In the discussion that you had with Mr. Jenkins leading to this decision, you only considered hotels, shopping malls and industrial parks, and gave no thought or weight to whether or not the County was providing telephone service to any other, quote unquote, facility, is that correct?
MR. HOPE: Objection to form.
THE WITNESS: We gave consideration to the three items that are mentioned in this paragraph.

BY MR. GOLDBERG:
Q And no others, is that correct?
A Correct.
Q Now sitting today in 2004 with me reading this airport exemption rule to you and

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highlighting that the text says facilities such as, quote unquote, would you agree with me that your construction and reading of this language back in 2002 was incorrect?
MR. HOPE: Objection to form.
THE WITNESS: No, I don't agree with you.
BY MR. GOLDBERG:
Q So as you sit here today and it's been read to you and you've looked at it, is it your testimony that the airport exemption rule only relates to a hotel, to a shopping mall and to an industrial park, but to no other similar, quote unquote, facility?
MR. HOPE: Objection to form.
THE WITNESS: Our interpretation was to consider the three, the three facilities mentioned here, and those are the ones that we considered.
BY MR. GOLDBERG:
Q And my question that I asked which was not answered and I will ask again is, as you sit here today in December 2004, after having read the airport exemption rule at this deposition, and having discussed it, is it still your view that the airport exemption rule is limited to

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three entities and three entities alone: a hotel, a shopping mall, an industrial park, and no other similar type, quote unquote, facility?
MR. HOPE: Objection to form.
THE WITNESS: I have the same interpretation that I had in 2002.
BY MR. GOLDBERG:
Q Please explain to me then how you interpret the words "such as" in that sentence.
A Well, facilities that are hotels, shopping malls and industrial parks, and since they're not -- any other facilities that might be implied here are not stated here, how can you consider something that you don't know what it is?
So they were not considered.
Q Going to the next sentence: "However, if the airport partitions its trunks, it shall be exempt from other STS rules for service provided only to the airport facility."
Now you said -- was that sentence considered in 2002 in making your and Mr. Jenkins' decision not to file for a certificate with the PSC?
MR. HOPE: Objection to form.
THE WITNESS: Yes, it was considered.

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BY MR. GOLDBERG:
Q Tell me how it was considered and how it supported your decision not to file for a certificate.
A Well, we had -- we were servicing the hotel, we had partitioned the trunks, and we were not providing services to industrial parks or shopping malls, so that didn't apply.
So we were meeting the rule of partitioning trunks to the hotels.
Q By the way, let me go back to the prior sentence for a second, I apologize, we'll come back to the last sentence.
The words "shopping malls," how did you interpret that in 2002? What did that mean to you?
A It was to me, or to us, it was a mall located -- freestanding mall where people from the outside come shopping, like many malls that we have in all cities.
Q Did you interpret that word, shopping mall, to include a shopping mall on the airport property or off the airport property or both?
A Both.
Q How do you provide telephone service to a shopping mall?

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MR. HOPE: Objection to form.
THE WITNESS: How? You run the lines to the shopping mall and connect them to your PBX that you have to provide service to the airport --
THE REPORTER: Provide service to the airport, what?
THE WITNESS: That you run lines to the shopping mall to provide services from the PBX that the airport owns.
BY MR. GOLDBERG:
Q When you run a line to the shopping mall, per your testimony today, where does that line go?
A Well, if you're providing phone services, it goes from the PBX to the actual phone that the, let's say the stores or whoever is in the mall uses.
Q So when you're referring to a shopping mall and you read that word in the airport exemption rule, is it not correct that you're -- would view that as providing telephone service to the stores that make up the mall?
MR. HOPE: Objection to form.
THE WITNESS: To the stores that

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are -- make up the shopping mall, yes.
BY MR. GOLDBERG:
Q Okay, because you'd agree with me it's hard to provide telephone service to this entity, this, quote unquote, mall?
A Correct, I agree, the mall is not an entity, it's the stores that provide inside the mall.
Q What kind of stores would you generally find in a shopping mall?
MR. HOPE: Objection.
THE WITNESS: Basically a mall is all kinds of stores, from clothing to kitchen, linens and things, basically that sells all kinds of items that people from all over the place come just to shop there.
BY MR. GOLDBERG:
Q Do you have -- would you agree with me that those stores would include restaurants?
A Yes, malls have restaurants, yes.
Q And would you agree with me that malls sometimes have bars?
A They have bars.
Q And that malls sometimes have stores

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that sell clothes?
A Yes.
Q Now this is an airport exemption rule, you'd agree that the rule we're discussing pertains just to airports, correct?
A Yes.
Q So you'd agree that it contemplates stores such as restaurants, clothing stores or bars that are in an airport, correct?
MR. HOPE: Objection to form.
THE WITNESS: I don't understand the question.
I think the definition of shopping mall is a definition where they have a lot of stores where people go from the outside, from all over the place, just to shop there.
I don't quite understand your question.
BY MR. GOLDBERG:
Q Sir, let me rephrase it. I apologize if you didn't understand.
Wouldn't you agree with me that the shopping-mall language contained in the airport exemption rule applies to stores such as restaurants, bars or clothing stores that are

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present in an airport?
A No, they're present in a shopping mall.
Q So is it your testimony here today that an airport cannot have a shopping, a shopping mall or a mall of shops inside the airport premises?
A I'm saying --
Q Is that your testimony?
A My testimony is that MIA does not have a shopping mall inside the airport.
Q Does it have shops inside the airport?
A Yes, it does.
Q Does it have restaurants inside the airport?
A Yes, it does.
Q Does it have clothing stores inside the airport?
A Yes, it does.
Q Does it have bars inside the airport?
A Yes, it does.
Q But it's your testimony that those shops don't make up a shopping mall inside the airport?
A The inter -- correct, the interpretation was that a shopping mall is where

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people from outside just go there shopping.
The people that go at the airport, they go -- most of the things that are sold are for the convenience of passengers traveling through the airport, and the people that go shop there are because they're involved in traveling, not -- they don't come from the outside to shop there.
Q And is it, along those lines, are you interpreting shopping malls and did you interpret the words shopping malls back in 2002 as being something like the Dadeland Mall in South Miami or Aventura Mall in North Miami or the Sawgrass Mills Mall in Sawgrass?
A Any other mall where people go shopping, yes, those and any other kind of mall where people go just there to shop.
Q Can you give me any examples of an airport at any place in this country which provides telephone service to a mall as you've defined it, such as, you know, Dadeland or Sawgrass or Aventura?
A No, I can't.
Q Back in 2002 when the decision was made, you'd agree with me that the airport was providing telephone service to certain

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restaurants or shops or bars inside the airport, correct?
A Yes.
Q But back in 2002 your interpretation of shopping malls did not include any of those shops, restaurants or bars, et cetera, is that correct?
A We felt that we didn't have a shopping mall at the airport, so that did not apply to MIA.
Q Was there any authority that you had in 2002 other than you and Mr. Jenkins' review of this language that supported that interpretation of the words shopping mall?
MR. HOPE: Objection to form.
THE WITNESS: Well, like I said, it was me, Mr. Jenkins and possibly Mr. Hope that provided an opinion, and other than that I don't recall anybody else offering an opinion on this.

BY MR. GOLDBERG:
Q Not just offering an opinion, were you aware of any other authority, factual, legal or otherwise, that supported the interpretation of shopping malls that you just testified to at this

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deposition?
A Well, I believe the Orlando folks felt the same way that we did.
Q Talk about Orlando in a second, but is it your testimony that they had malls and shops inside the airport as well that they were providing service to?
MR. HOPE: Objection to form.
THE WITNESS: No, they were providing services to shops, not to malls, that are located at the airport.
BY MR. GOLDBERG:
Q When you read the term industrial parks back in 2002 during this decision-making process, what was your interpretation of what industrial parks meant?
A Industrial park, the way I would interpret it is it's a conglomeration of warehouses, office buildings with different companies residing in there renting space and -- or owning space, and conducting all kinds of different businesses.
In other words mostly not condominiums or people living there, but just basically a place to conduct businesses of different types.

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Q Could I ask you to read back his last answer, please?
Thank you.
(Record read by reporter)
BY MR. GOLDBERG:
Q Back in 2002 when the decision not to file a certificate was made with the PSC, were there industrial parks, given your interpretation, at or on the premises of the Miami International Airport?
A No.
Q Were there any offices or office -- any commercial offices at the Miami International Airport?
MR. HOPE: Objection to form.
THE WITNESS: There were offices, commercial offices dedicated to, related to the airport business and the conduction of moving passengers and cargo at the airport.
BY MR. GOLDBERG:
Q Were there any warehouses at the Miami International Airport?
A There are warehouses, again dedicated to the aviation industry, passengers and cargo.

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Q Did the County at that time the decision was made provide telephone service to any of these offices, or warehouses, or what you've termed or interpreted as an industrial park?

A The decision that was made was related to providing services to any companies providing activities related to the moving of passengers or cargo at the airport.

And to my knowledge there was no businesses residing at the airport facility that did not have something to do with the moving of passengers or cargo at the airport.

Q Why do you relate the provision of service to an industrial park to your comments about the safe and efficient transportation of passengers through the airport facility?

A The, the definition an industrial park is the conglomeration of businesses, warehouses, factories, what have you, that do not have a common goal, they have different activities for different purposes.

At the airport the businesses that reside there are all oriented towards the moving of passengers or cargo through the airport, and

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that is a big difference.

Q Where in the sentence where it says: "The airport shall obtain a certificate as a shared tenant service provider before it provides shared local services to facilities such as hotels, shopping malls and industrial parks," where does it state or relate anything having to do with the safe and efficient transportation of passengers through the airport?

MR. HOPE: Objection to form.

THE WITNESS: It was taken from the first sentence in that paragraph.

BY MR. GOLDBERG:

Q Does the second sentence -- is the second sentence conditioned on the first sentence?

Or wouldn't you agree with me that the second sentence is an exception to the first sentence?

MR. HOPE: Objection to form.

THE WITNESS: No, I -- we interpreted that first sentence to be all-encompassing, as long as you are dealing with the safe and, safe and efficient transportation of passengers and freight through the airport

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facilities, that that would entitle the airport to be exempt from the certificate.

BY MR. GOLDBERG:

Q If that were the case, what would be the need for the second sentence or the third sentence at all?

A I can't answer that.

Q Wouldn't you agree that the second and third sentence are inconsistent with the view that you just gave?

MR. HOPE: Objection to form.

THE WITNESS: Not necessarily. Some airports could have in their grounds outside the airport a shopping mall that they want to provide services to.

BY MR. GOLDBERG:

Q Going back to the third sentence, however -- it says: "However, if the airport partitions its trunk, it shall be exempt from other STS rules for service provided only to the airport facility."

How was that sentence taken into consideration in making your decision to not file a certificate with the PSC in 2002?

A As I explained before, we were

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providing services to a hotel, and we had the trunks partitioned; therefore, we don't have to -- we're exempt from the STS rules as far as getting a certificate.

That's the way it was interpreted.

Q Is it your interpretation that the third sentence relieves the County, just relating to the hotel for a second, relieves the County from applying for a certificate if it partitions its trunks to the hotel?

A Yes.

Q The second sentence says the airport shall obtain a certificate, the third sentence says if it partitions its trunks it shall be exempt from other, quote unquote, STS rules for service.

Does it say in there it's exempt from obtaining a certificate?

A It doesn't say, it doesn't mention the certificate here. However, the document is a lot more than this paragraph.

Q Well, what do you mean, the document is a lot more than this paragraph?

A The whole document is a lot more than just this paragraph.

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Q What document are you referring to?
A The Florida statutes, wherever this paragraph was taken from, contains a lot more than just this paragraph.
So the overall opinion by reading the document was that, like I said, since we don't provide services to shopping malls and industrial parks, but only to a hotel as mentioned here, and we do partition the trunks in the hotel, that we were not required to have a certificate, since the document expressly says that airports are exempt from getting a certificate.
Q All right, the document that's in front of you, Cert-4, the airport exemption rule, I just want to make sure the record is clear, are you saying this isn't the entire airport exemption rule that you've testified about?
A No, I'm saying that the document to my recollection, it's -- there's a lot more in that document, the PSC document, than just this paragraph.
It might have another title, but it goes obviously --
Q Would you agree -- I'm sorry, go ahead.
A It has to be more, because the word

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certificate, I don't believe it's mentioned here.
Is the word certificate in this paragraph?
Q No, it isn't, that's my --
A There has to be some more to it than that.
Q Is there anywhere in this paragraph, this airport exemption rule, which says that an airport is exempt from filing a certificate?
A If you put it in those words, those words are not in this paragraph.
Q Okay, quite to the contrary, you'd agree with me that it says the airport shall obtain the certificate, there's an affirmative obligation, correct?
A No, it doesn't say that, because it qualifies that statement in the next sentence.
Q In the last sentence?
A In the "however," and beyond.
Q Where in the text of the last sentence does it say that, however, if an airport partitions its trunk it shall be exempt from the obligation to get a certificate or apply for a certificate?
A The word certificate is not there. But

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it says it's exempt from the other STS rules for service.
Q And how do you interpret other STS rules? What does other leave out, in other words?
A It was interpreted --
MR. HOPE: Objection to form.
THE WITNESS: It was interpreted to be the need to get a certificate.
BY MR. GOLDBERG:
Q Let me mark for you -- we'll continue on with the issue of applying for a certificate -- I'm going to show you what's been marked as Plaintiff's Cert-5, which is a copy of --
MR. HOPE: Thank you.
BY MR. GOLDBERG:
Q -- Rule 25.24.567 of the Florida Administrative Code, of Title 25 of the Public Service Commission, and it's entitled Application For Certificate.
Did I read that correct?
A Mm-hmm. Yes.
Q Why don't you take a minute to look at that document, please?
Have you had an opportunity to review

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that?
A Yes, Sir.
Q Okay. Now this rule deals specifically with the application for a certificate, what we've just been speaking about, you'd agree with me on that, correct?
A Yes.
Q Okay, let me refer you to paragraph 1 where it says: "An applicant desiring to provide shared tenant service shall" -- I want to emphasize the word shall -- "submit an application on Commission Form PSC/CNP 37, which is incorporated into this rule by reference."
Did I read that correctly?
A Yes, you did.
Q Would you agree with me that the Florida Public Service Commission requires that any applicant who desires to provide shared tenant service shall submit an application?
A Yes and no. It says so here, but however again this paragraph is qualified in the next section which you read before, the airport exemption.
So the paragraph cannot be taken in its own context without reading the whole document.

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Q So is it your testimony today that the airport exemption rule 25.24.580 is an exception to this rule dealing with application for a certificate?
A The other -- the airport exemption refers to the other STS rules, and this was interpreted to be one of them.
Q But as we've talked about in the airport exemption rule, after it says it shall be exempt from other STS rules, the next, very next sentence in the airport exemption rule says the airport shall obtain a certificate as a shared tenant service provider, so how do you reconcile that fact with your interpretation?
A I think we already went through this at length and I explained why that is: because we don't provide services to shopping malls and industrial parks, and we do provide to a hotel and we partition the trunks, and it says so, that if you partition the trunks, you are exempt from the other STS rules.
Q Did you consider the rule relating to application for a certificate in 2002 when the County made its decision not to file an application with the PSC?

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MR. HOPE: Objection to form.
THE WITNESS: We were aware that the document stated that for other than airports, people -- anybody desiring to provide shared tenant services other than airports would have to apply for a certificate.
BY MR. GOLDBERG:
Q And you'd agree with me that this rule that I just read, where it uses the word shall, shall is something that means that it's mandatory, that it's required, and that there's no discretion involved?
MR. HOPE: Objection to form.
THE WITNESS: Shall means that, what you described, yes.
BY MR. GOLDBERG:
Q Can you explain to me why the County, in making its decision not to file, concluded that it was the County who could decide whether or not -- strike that.
When the County decided not to file did the County decide on its own that the airport exemption rule applied to it?
MR. HOPE: Objection to form.

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THE WITNESS: We decided on our own with the help of this document and the Orlando airport experience, yes.
BY MR. GOLDBERG:
Q What authority or support can you provide me, or facts that support the County's decision that it could make such a determination on its own?
MR. HOPE: Objection to form.
MR. GOLDBERG: Strike it, I'll withdraw the question.
BY MR. GOLDBERG:
Q What facts can you give me that support the County's view in 2002 that it could self-determine whether or not the airport exemption rule applied?
Do you have any?
A The County, or the parties involved in this case, we make decisions all the time of the business and legal nature relating to the airport business.
And this was just another decision that was made in the course of conducting our businesses there. That's what we get paid to do.
Q Was there any support for your position

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that the County could self-determine whether or not the airport exemption rule applied instead of having the PSC make that determination?
A Support meaning third-party opinion, whether we should do it instead of the PSC, is this your question?
Q Are you aware of any facts --
A What does support mean?
Q -- that supports your decision, supports your view?
A The fact of this document itself and the --
THE REPORTER: The what?
THE WITNESS: This document that we have in front of us and other pages that are not here, and also the opinion of the Orlando Airport based on the process that they went through with the Public Service Commission.

BY MR. GOLDBERG:
Q That's what you're relying on to support your view that it was the County who could determine whether or not the airport exemption rule applied instead of making an

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application for a certificate and having the PSC determine whether or not the airport exemption rule applied?
MR. HOPE: Objection to form.
THE WITNESS: The decision was made to make the decision, instead of applying for a certificate.
BY MR. GOLDBERG:
Q I understand the decision was made not to apply for a certificate. My question is what led the County to conclude that it could make the decision as to whether or not the airport exemption rule applied, instead of having the PSC make that decision?
A I can't answer that. We just made the decision not to apply.
Q To your knowledge has the PSC ever ruled that the Miami International Airport -- strike that -- that the County falls within the airport exemption rule?
A No.
Q Other than the airport exemption rule, Cert-4, the exhibit I showed you, are there any other Florida laws or statute or rules that you or Mr. Jenkins and Mr. Hope reviewed in making

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the decision not to file an application?
MR. HOPE: Objection to form.
THE WITNESS: We read this whole document, like I said, this is just two pages of this bigger document, and that was the only document that we read.
BY MR. GOLDBERG:
Q What document are you referring to?
A I'm referring to the document where these rules are contained, the Florida Administrative Code, whatever -- the Title 25.
Q Did you read all of Title 25? Is that the document?
A Chapter 25-24, yes, I think, I believe I read the whole thing.
Q Are there any other provisions that you recall of Chapters 24 or 25 that supported your decision not to file an application for a certificate?
MR. HOPE: I think you mean 25-24.
THE WITNESS: 25-24, yes.
MR. GOLDBERG: Yes.
THE WITNESS: I can't recall exactly what it is, if it's anything else. I don't, I don't have the document memorized.

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BY MR. GOLDBERG:
Q The second reason you gave was circumstances relating to the Orlando International Airport.
A Right.
Q Can you detail for me and explain how it is that Orlando's airport was brought to your attention in the context of whether or not to make an application to the PSC or not?
A Well, Orlando is a an important airport in Florida so we, we had other issues that we wanted to see how Orlando was functioning in general about other telecommunications and information-technology issues, so we contacted them as a matter of peer information.
And one of the things that we asked them is about this issue of the providing services, and they had been involved in a, what they described as a lengthy process with the Public Service Commission on this issue, and basically they provided the -- their opinion that, since they're very similar to us in what they provide over there, that we don't need a certificate to do the same thing.
Q Who had the contact with the initial --

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with the Orlando International Airport from the County's side, Miami-Dade County's side?
A I believe my boss made the first contact, and to his counterpart, and then I was in touch with my counterpart.
And I was the one that actually ended up going up there and meeting with my counterpart, a Mr. Robinson.
Q Who was Mr. Jenkins' counterpart at the Orlando International Airport?
A It would be Mr. Robinson's boss, but I don't recall his name.
Q Who obtained the information you speak about from the Orlando Airport regarding the PSC and the issue as to whether or not to apply for a certificate? Was that you or was that Mr. Jenkins?
A When I came back from Orlando I brought a lot of documents that -- from that process that they went through, and I forwarded them to Mr. Hope for review, and I never read them myself.
And I just relied on their, basically their verbal opinion when I was there meeting with them on this issue.

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Q So the answer to my question is it's you and not Mr. Jenkins?
A That's right.
Q Okay, so let's focus on you then. Before going up to Orlando's airport did you have any discussions by telephone with your counterpart, Mr. Robinson?
A Yes, I believe we talked on a couple of occasions.
Q What other issues other than, you know, the certificate issue were you inquiring about?
A Oh, many issues, like the way they, they have -- the contract they have for the maintenance of the telephone equipment over there, which I believe is, BellSouth is providing. This is what's similar to what Nextira is going to do for us.
We also looked at the flight display monitors they had, the clocks they had. We were in the process of deciding what clocks to use at the terminal.
We had their -- had meetings regarding the work order system, the way they process the orders for telecommunications with their staff.
Basically their 911 response location

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over there, they respond to 911 calls directly at the airport PSAP, which is primary -- I forgot what it stands for, PSAP, that's where you get the calls from the 911.
And all kinds of issues regarding to operational issues at the airport.
Q Did you discuss, before going up to the airport to meet with Mr. Robinson, the certification issue by telephone with him?
A I'm sure we did, yes.
Q Did you have discussions when you were there about the PSC certification issue?
A Yes.
Q Can you detail for me what Mr. Robinson said to you on that issue, whether it be by telephone or when you were there in person?
A Mr. Robinson was very adamant to his position that airports do not need, like Miami and Orlando, do not need a certificate because of the way we -- they provide the services and who do you provide it to.
And he basically told me that they have been involved in a long process with the PSC, and really didn't go into any specific details, it was just a general opinion, based on what he went

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through, that we had a similar situation at MIA and that we really didn't need to get a certificate.
Q Did he advise you as to whether or not the PSC had ruled on that issue involving his airport?
A Yes.
Q And what was your understanding of the ruling?
A The same understanding that I have now: based on that -- since they went through the process, he felt that they didn't need a certificate.
And he told me that, based on what we do at MIA, we didn't need a certificate.
Q And we're talking about Al Robinson, is that his first name?
A Yes.
Q And was he the manager of telecom at the Orlando Airport?
A He's my counterpart.
Q And is it your testimony today that he told you that the PSC, the Public Service Commission of the State of Florida, had ruled that the Orlando International Airport did not

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need a certificate?
A That's to my recollection what he said.
Q Did he state that the PSC had ruled, with respect to Orlando International Airport, that that airport need not file an application for a certificate?
A I believe that's what I said or that's what he said, yes.
Q Just so the record is clear, I'm asking about two separate points. Did he represent to you that the Public Service Commission had ruled that the Orlando International Airport, number one, did not need to file an application for a certificate; and/or number two, that the Orlando International Airport need not be granted a certificate?
MR. HOPE: Objection to form.
THE WITNESS: I don't understand the second version, but --

BY MR. GOLDBERG:
Q How about the first: Did he represent to you that the PSC had ruled that the Orlando International Airport need not apply for a certificate?

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A That was my understanding, yes.
Q Second, did he represent to you that the PSC in the State of Florida had ruled that the Orlando International Airport was exempt from any certification requirements pursuant to the airport exemption rule that you previously testified about?
A I believe those two things are pretty much the same thing, so the answer would be yes for both.
Q Do you know whether or not the Orlando International Airport ever applied for a certificate?
A No, I don't know that.
Q I think it was your testimony earlier that it's your understanding that, based on your conversation with Mr. Robinson, that they also made the decision on their own not to apply for a certificate? Is that correct?
A I don't know who was involved in their decision. The decision was made not to do it, but I don't know who was involved in that.
Q When you were having this discussion or Mr. Robinson was making these representations to you, did you ask to see any supporting

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documentation with respect to the Florida Public Service Commission's order or rule?
A I did --
Q Ruling, I mean.
A I requested copies of the documents, and actually I brought back a -- files pertaining to that which I forwarded to Mr. Hope.
I never read them.
Q Did you ever read a Florida Public Service Commission order or ruling on the issues we just discussed?
A No, I did not.
Q Your testimony, you just accepted what Mr. Robinson had to say without looking at any of the documentation he provided you?
MR. HOPE: Objection, form.
THE WITNESS: Correct.
BY MR. GOLDBERG:
Q And with respect to the timing of receiving this documentation, providing it to Mr. Hope, was this done before or after the decision was made by the Miami-Dade County not to file for a certification with the PSC?
A It was around that time. I can't say exactly whether it was a little before or a

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little after. It was all part of the same time period, more or less.
But we did have input from Orlando as to what they did or didn't do as far as not applying or not needing a certificate, so that was part of our, probably, our decision, so that information had to be there.
Q Did Orlando, at the time that you made your visit there, have shops such as restaurants -- strike that.
Were they providing telephone service to hotels?
A I believe they have a hotel there, yes, yes.
Q Were they providing service to any restaurants or shops that sold clothes or bars at the airport?
A Yes.
Q Were they providing telephone service to any industrial parks as you've interpreted that phrase?
A I don't know -- no, not industrial parks, in the sense they were providing services to, again, to tenants of the airport.
Q Did you seek out the opinions or facts

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from any other airport in the State of Florida on this issue other than Orlando?
A I made a contact with the Tampa airport, the lady that runs the telecom over there, by phone. It was just a quick phone call.
And I believe she told me that she had applied for a certificate, but they were not providing any services to anybody, so she was really not using the certificate for anything.
Q Did she explain to you why they had applied if they weren't providing service?
A She couldn't tell me why.
Q Could it be what you just read: that an applicant who desires to provide service according to the PSC shall apply for a certificate?
A I don't know --
MR. HOPE: Objection to form.
THE WITNESS: -- what she had in mind.

BY MR. GOLDBERG:
Q Other than the representations you've testified to at this deposition, and other than the documents that you didn't read that you passed on to Mr. Hope, are there any other

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representations, pieces of information, or any other facts that Miami-Dade County took into account from Orlando's airport in making its decision not to file for a certificate?
A No.
Q Did you ever have -- strike that.
I'm just asking a yes or no question here, did you ever have a conversation with Mr. Hope with respect to the documents that you provided to him from the Orlando airport after you provided those documents to him
A You want a yes or no answer?
Q Yes.
A Yes.
Q And is that the -- strike that.
Who was present during that discussion?
A It was a phone call, it wasn't really a discussion. It was a question.
Q A question --
A There was nobody present, it was just me and him on the phone.
MR. GOLDBERG: Is it your contention, Mr. Hope, that that conversation is privileged?
MR. HOPE: Correct.

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BY MR. GOLDBERG:
Q You have a pretty certain recollection of that conversation with Mr. Hope, Mr. Garcia?
A Yes.
Q Why is it then now, today, during this deposition, you have a certain recollection of Mr. Hope's involvement, but earlier on affirmatively said he was not involved?
A You haven't asked me what the conversation was.
Q I'm sorry?
A You have not asked me what the conversation was.
Q What the conversation was?
A Right.
Q Oh, I asked -- I thought I did, but let me make it clear, did the conversation involve the documents that you provided him from the Orlando Airport?
A Yes.
MR. HOPE: Let me instruct the deponent not to answer any questions that deals with the nature of the conversation.
THE WITNESS: Okay.
MR. GOLDBERG: It's 12:00, we

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haven't taken a break, can we go off the record and take a small lunch break and talk about scheduling? Or do you want to do that on the record?
MR. HOPE: Well, no, we can go off the record, I just wanted to --
THE VIDEOGRAPHER: Going off the record.
(Recess)
THE VIDEOGRAPHER: Stand by. We're back on the record, video number 2.
BY MR. GOLDBERG:
Q Mr. Garcia, are you prepared to continue with your deposition this morning?
A Yes, Sir.
Q Okay, I have placed in front of you what we'll refer to as Plaintiff's Exhibit Cert-6.
Just so I can explain, this is a composite exhibit. A composite exhibit means it's made up of a number of different documents written or created at different times, although they pertain to the same overall subject matter that we've been discussing, so I don't want to mislead you that this is one entire document,

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it's just a composite of different exhibits, and I'll walk you through it.
Is that understood by you?
A Yep.
Q And also, the documents are documents that the County has produced to BellSouth in discovery in this action.
And if I could just get a stipulation by Mr. Hope that that's the case? David, if you look at the Bates-stamp numbers, I think that that will --
MR. HOPE: So stipulated.
MR. GOLDBERG: Thank you.
BY MR. GOLDBERG:
Q Let me -- I mean I may, as I go through, although some of the numbers are off, but let me ask you to direct your attention to the first page of the exhibit.
Have you seen these handwritten notes before?
A It's my handwriting.
Q Okay, and can you tell me just so -- for the record purposes, is this a set of notes that you wrote with a date up top of December 10th, 2001?

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A Yes.
Q And does it denote Al Robinson, Orlando Airport, and his telephone number at the top?
A Yes.
Q Can you tell me how it came to be that these notes were created?
A I can't recall. It could be something related to the trip that we took over there, it could have been a conversation we had on the phone.
I really can't recall the circumstances.
Q It says -- well, it has a phone number, does that refresh your recollection as to possibly these are notes arising from a telephone conversation you had with him?
A It could be, yeah, it looks like it was a conversation that I had with him over the phone and I was just taking notes.
Q To the left up at the top it says Mgr Telecom, does that stand for manager, telecom?
A Yes.
Q Was that Mr. Robinson's position?
A Yes.
Q And then can you read for me what it says down below, the next line down starting with

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STS?
A I was just trying to figure that out.
Q Does it say STS --
A Rent a Car --
Q -- Rent a Car --
A -- and shop concessions --
THE REPORTER: One at a time, please.
MR. GOLDBERG: I'm sorry, you're right.
THE WITNESS: Rent a Car, shop concessions, and POP customers --
THE REPORTER: POP customers?
THE WITNESS: P-O-P, and then PCS, airport is one building.
I guess that was the interpretation that the PSC considered the airport to be one building. It doesn't matter whether it was one building or three buildings, as long as it's in the airport ground it's considered as one building.

BY MR. GOLDBERG:
Q Okay, and then the next line down?
A 25.4, public law, I'm not sure what that -- it could be referring to one of these State of Florida chapters or whatever.

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Q Having read these notes so far does it refresh your recollection as to any conversation you had with Mr. Robinson on or about December 10th, 2001?
A Not really.
Q So just so we're clear, at this time as you sit here today you do not recall -- do you recall having a telephone call with Mr. Robinson on December 10th, 2001?
A Well, obviously I had a conversation with him because this paper is here and I wrote it, and I have to assume it was 12/10.
Do I recall? No.
Q Can you use these notes to refresh your memory in order to place in context for us what you said to him or what he said to you on the telephone?
A I can probably answer what is written here. I don't -- probably won't recall too much more of what was said or wasn't said, because if it was important I would have written it here.
Q You have the words in the middle of the page MTCE agreement, do you know --
A It's maintenance agreement.
Q And on the left-hand side is that care

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or car?
A Looks like core, but I don't know what -- why it wrote that.
Q Core?
A I'm not sure what that -- why I wrote that there. I don't recall.
Q If you could read -- could you keep reading down your notes?
A Three telecommunications analysts and one telecommunications cabling person.
I think it was -- this was referring to the staff, because they did have a contract with BellSouth to maintain the equipment that they had over there to provide services, and I think this is the staff that BellSouth had on the premises to do what they do there, which is that -- then it says BellSouth, times and materials for projects, this is how they charge the Orlando Airport to do what they do.
And also they perform their own MAC, which is moves, adds and changes, that's the way it's described when moving a telephone from one place to another or to add additional lines as required.
Q The next lines down, looks like another

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set of numbers, what does that refer to?
A 407, I imagine that's the air code of Orlando; 825 is the internex (phonetic), or the first three numbers of the airport switch, I think that's what it should be, if -- it's a prefix, that they own that, 825.
In other words the whole complement of the four numbers that follow that, the whole 825 is Orlando airport.
And I don't know the 8500, what it means, but the 6000 is like the number of stations or telephones they have at the airport there.
Q What's the words next to 825, the right-hand side?
A I'm sorry, what's that?
Q What are the words here, next to --
A That's the prefix, they own. In other words they own the whole complement of numbers after that.
Q Having looked at the entirety of this first page of notes, does it refresh your memory as to any issues you discussed with Mr. Robinson?
A Again, this was -- I was trying to -- this was all me finding out what they had over

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there, what kind of operation they were conducting over there at the airport.
Q The second page in this exhibit, is this also your handwriting?
A Yes.
Q Is this a continuation of the notes from the same event or conversation?
A I don't think so, because I'm talking about an Nextira STS. Nextira was providing STS services prior to us buying their equipment. This was I guess the services that they were -- the type of STS services, could be, that Nextira was providing.
Q Okay, what's the next item down?
A Develop turn-over requirements --
Q You got to keep your voice up, read out lot, that would help.
A I'm sorry, it says develop turn-over requirements, general items, manual delivery, training, overlap.
I guess these are notes relating to, I would imagine, the things that were needed to take over the operation of Nextira.
This was -- the first part was the services that they were providing STS, using our

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equipment, and then the develop, the turn-over requirements. . .
Q If you could read -- keep reading down?
A It says on-site equipment, 20 trucks or vehicles, office equipment, 12 months plus, ARINC, that's A-R-I-N-C, and SITA, S-I-T-A, those are two companies that provide CUTE service, C-U-T-E, that's a service that -- what -- the airlines, the airlines equipment to produce tickets and keep their reservations and bag tags and boarding passes and so forth, which Nextira was providing and we are now owning the equipment and providing that.
And then the last says STS, do we need to apply? Call the PSC.
I was just making notes to myself to -- about that issue.
Q And this whole -- these whole notes were written related to the turnover of the STS services from Nextira to the County, correct?
A Yes, it was all part of the deal that we were buying their equipment.
Q So does the last notation on here where it says STS, do we need to apply, call PSC, first my question is does this document sort of cement

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your testimony and support your testimony that the question of whether to apply for a certificate or not to apply for a certificate arose because of the transaction with Nextira in 20 -- in early 2002?
A Well, Nextira was providing the services, they did not have a certificate, so I would -- just had a question in my mind whether we should have one or not.
Q And it says call the PSC. Whose idea was that?
A Just a note to myself that I was, as I was writing these things down, that was just notes to myself.
Q Why would you write call the PSC?
A Well, that was the -- if I have the question do we need to apply, calling the PSC could be one of the ways to find out.
Q Don't you think it might be one of the best ways to find out?
MR. HOPE: Objection to form.
THE WITNESS: It's a way to find out.
BY MR. GOLDBERG:
Q Who would you give more weight to, what the PSC says if you call them on this issue, or

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for example the Orlando International Airport?
MR. HOPE: Objection to form.
THE WITNESS: Well, the Orlando airport actually had a ruling from the PSC that they didn't need a certificate, so that was to me as good as gold.
BY MR. GOLDBERG:
Q All right, let me ask you to turn the page. This is a fax cover sheet from you and Mr. Hope to Myra Bustamante.
Who is Myra Bustamante?
A She was the assistant director of like commercial operations at the airport.
Q And this is your signature, Pedro, at the bottom, correct?
A Yes.
Q Could you explain to me what it was that you were transmitting to her?
A I have no idea. Could have been anything.
Q Well, was it the next page? It says: Fax contains two pages. If I could ask you to turn the page, was this an e-mail that you were transmitting to her?
A It's possible. Leonard Stout was the

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consultant -- Leonard Stout, S-t-o-u-t, the e-mail was from this gentleman, and to David Hope, myself, and Susan Pascal, which is P-a-s-c-u-l, she's a person in our contracts division at the airport.
Q Just for the record, we're looking at a document that's an e-mail from Mr. Stout, to David Hope, Pedro Garcia, and Susan Pascul, dated December 7th, 2001, correct?
A Correct.
Q What is operations -- the subject is Operation Next Steps. What is Operation Next Steps?
A I don't know why he wrote that, but it's basically, I guess this was part of the discovery process of the whole thing of taking over the Nextira operation, and he was providing information in case we wanted to contact these folks and find out more about something.
Q Well, wouldn't it have been with respect to the certification issue, as the first entity right here has contact information with the Florida PSC?
A Possibly, yes.
Q Okay, and then the next contact is a

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Denver contact, James Winston, who is he?
A He's probably a -- well, Assistant Deputy Manager of Aviation and Telecommunications, the title is right here.
Q At the Denver International Airport?
A Right.
Q Okay, and then the Tampa contact is Sharon Weaver?
A Director of Administration. And I spoke to Sharon Weaver, that's what I mentioned prior, that I had talked to her, and she had gotten a certificate, but they were not providing any STS services, and she couldn't tell me why she had the certificate.
And Denver was deemed that, since it wasn't in Florida, whatever they had to say didn't have any relevance to us.
Q Fair enough.
And the last one is the Hillsborough County Aviation Authority, did you or anybody from the County contact them on this issue of certification?
A I didn't. We didn't feel the airport was important enough to contact. It was probably a small airport.

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Q Why is the Hillsborough County Aviation -- why did you determine it wasn't important enough?
A I don't know, I'm just guessing, but I don't remember talking to them.
I don't if I couldn't get a hold of that person or -- that was just a general number, it wasn't a person, so maybe I decided it wasn't -- or maybe I called and I couldn't get anybody, I don't know, I don't remember.
Q Okay, but suffice to say nothing about Hillsborough County Aviation Authority was -- entered into the decision-making process?
A No.
Q And this e-mail was copied to both Bobbie Phillips and Maurice Jenkins?
A Yes.
Q Let's go to the next page, which is also a page of notes. Is this your handwriting?
A Yes.
Q And just for reference, for the record, it starts on the top saying Orlando APT, or airport. Is this just background information at the top as to who Mr. Robinson is?
A That's just how to get in touch with

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him, his title and phone number and e-mail address.
Q **And what's below?**
A **Sid is a consultant** that we were using to help us with the drafting of the contract agreement with Nextiraone, and those numbers probably mean the millions of dollars that they wanted for the purchase of the equipment.
They asking for 7.5, we wanted to offer 6.5. I imagine that's what it was, because it was in that neighborhood.
Q Let's go to the next document, this is an application form from the Florida Public Service Commission, correct?
A Yes.
Q And the next number of pages make up the application, and is it -- have you seen this document before?
A Yes.
Q Is the handwriting on this document yours?
A No, not all of it.
I gave it to Maria Perez, who is the supervisor that worked for me, and I told her to basically go through this and get any preliminary information that she could so I didn't have to do

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all the work.
And then that was -- then I made some additions and some corrections to what she wrote.
Q So the County started the process of filling out an application for the PSC?
MR. HOPE: Objection to form.
THE WITNESS: Well, I started looking at the process. I mean it wasn't -- if you want to say I'm the County, but I basically was just -- I started informally to look at the information that was here and what will it take us.
As you can see it wasn't completely filled up, it was just very coarse evaluation of the application and what we could provide or not in the application.
BY MR. GOLDBERG:
Q And Question number 1, where it says this is an application for, and you have to check one, be it an original certificate or any others, do you know whether that is your X mark at original certificate?
A It was either mine or Maria Perez. But it would have been an original certificate,

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because we didn't have one before.
Q I'll ask you to turn to page 5 of that application where it says Contact Points, or actually question 16 asks: Who will serve as the liaison to the Commission?
The application, it's listed as Mr. Jenkins, and then down below it has your name put in, Maria Perez's name crossed out.
Is any of that writing on that page yours?
A Only my name and the Chief of Telecommunications, because I felt that I should be there, not her name.
Q **Did you go over and review the answers** that were -- strike that.
I assume, by the fact that you changed some of the answers, you reviewed the balance of the answers on this application and they were fine with you as --
A Yes, I did, yes.
Q **I'll ask you to keep** -- to go on to page 9 of this application where it says applicant acknowledges --
A I'd love to if I had it.
MR. HOPE: There is no page 9.
MR. GOLDBERG: You don't have a page 9?

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THE WITNESS: I have 8 and 10 -- here, it's after 11, I got it.
MR. GOLDBERG: It's after 11, isn't that how we number things?
THE WITNESS: Okay.
MR. GOLDBERG: I can say we received it that way from the County but I won't.
THE WITNESS: You can say it.
MR. GOLDBERG: Because I don't know that, it would just be a joke -- right, David?
MR. HOPE: Absolutely.
BY MR. GOLDBERG:
Q Okay, do you know why the Applicant Acknowledgement Statement at page 9 was not filled out?
A No. Like I said, there's a lot of other things in the application that are not totally filled up because it was just a very preliminary assessment of the application itself, and --
Q Did you review page 9 at the time, before making a decision whether or not to file with the PSC for a certificate?
A No, this was, this was before making

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any decision. This was just part of the -- what we were doing, the discovery process, so to speak.
Q So you knew at the time that there were various fees or taxes associated with --
A Yes, right, mm-hmm.
Q -- becoming certificated?
A Right.
Q Let me ask you to go to the next page in the composite exhibit, this is also a page of handwritten notes.
Is this your handwriting?
A Yes.
Q And just for the record it's -- up at the top it's dated 10/26/01, and the first line of the handwriting notes is PSC on STS, is that correct?
A PSC on STS, right.
Q Can you tell me how it came about that you created this page of notes?
A Obviously I must have talked to one of these gentlemen there and he provided this information over the phone.
Q As you sit here today do you recall the telephone conversation?
A I don't recall it, but since I wrote it

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I must have made it, the phone call.
Q As you sit here today, after having reviewed these notes, do you recall what you said to the -- does it refresh your recollection as to what you said to the PSC or the PSC said to you?
A Not other than what it says here.
Q Is it safe to assume that when you wrote these notes you wrote these notes accurately and that they accurately depict what was said on the phone?
A Yes.
Q So would you agree that this document is an accurate recordation of the telephone call that you had with the PSC on October 26, 2001?
A Yes.
Q And the title is PSC on STS, so was that the subject you were calling the PSC with respect to the County's position of the shared tenant services?
A Yes.
Q Do you remember who Jackie Gilcrest, Tom Williams or Rick Moses were, or are?
A No, Jackie was probably the boss of the other two gentlemen that are there, and I don't even know which one of those I talked to, to be

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honest with you.
Q Next to Rick Moses it states: He was at M IA 5-6 years ago looking at this issue.
A Right, that's what he told me.
Q Do you recall anything else about what he had to say on that issue?
A No. If it was relevant it would have been -- it would be written here.
Q Okay, can you read the next three lines of your notes?
A Yes, if MIA is going to provide service not related to public transportation, hotels, shops, et cetera, we need to file an application.
Q And the next line?
A In any event, trunks will have to be partitioned.
Q So you wrote down here, after talking to the PSC, if MIA is going to provide service not related to public transportation, hotels, shops, et cetera, we need to file an application.
Was there any ambiguity at the time about that statement or direction from the PSC?
MR. HOPE: Objection to form.
THE WITNESS: No.
BY MR. GOLDBERG:

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Q Having had that direction from the PSC as a result of the phone call, can you explain why that direction was disregarded and the County did not file an application for a certificate?
MR. HOPE: Objection to form.
THE WITNESS: I find this opinion very consistent with the documents that we were talking about before.
BY MR. GOLDBERG:
Q Please explain.
A Well, we're not providing any services not related to public transportation, which is the business of the airport, so therefore we don't need to file an application.
And the trunks, we provided service for the hotel, and the trunks are partitioned. This is exactly what the paragraph that we discussed prior says, in our interpretation.
Q It says if MIA is going to provide service not related to public transportation, and then you wrote, in parentheses, hotels, shops, et cetera, wouldn't one conclude and didn't you conclude that the PSC was saying that hotels, shops, et cetera, are not related to public transportation?

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MR. HOPE: Objection to form.
THE WITNESS: Our interpretation were to shops and hotels and things, again, that not related to the public transportation.
There are some cases that those shops and hotels could be outside the airport property.
BY MR. GOLDBERG:
Q **Do you have any notes that reflect any** discussion about whether these hotels, shops are outside the airport property or inside the airport property?
A No, I don't.
Q **So don't these** notes clearly reflect that the PSC said that if you're going to provide service not related to public transportation, such as hotels, shops, et cetera, you need to file an application?
MR. HOPE: Objection to form.
THE WITNESS: That's what it says here. But again, this is not the whole document, this is just one piece of information that was compiled along with the other documents or the chapter 24,

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25, that we discussed before.
BY MR. GOLDBERG:
Q **Wouldn't you agree with** me that this directive from the PSC is directly contrary to your -- the bases for your decision not to file an application?
MR. HOPE: Objection to form.
THE WITNESS: If you just read these three lines, yes, it seems to say that, if you provide services to hotels, shops, et cetera, but again, that is not the ruling of the PSC, that was just my notes, and not necessarily taken into consideration the airport exemptions and all the other things that are spelled out in the paragraph.
BY MR. GOLDBERG:
Q **Well, let's just talk about -- well, I** understand, let's talk about this phone call and this directive from the PSC.
You would agree with me that this is contrary to what you relied on at the end, not to file an application with PSC?
MR. HOPE: Objection to form.
MR. GOLDBERG: Just these notes.

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THE WITNESS: Well, it says here if the MIA is going to provide service not related to public transportation, hotels, shops, et cetera, we need to file an application.
It could imply that the hotels and the shops are not related to public transportation; however, we interpreted that the hotel and the shops in the airport to be related to public transportation.
BY MR. GOLDBERG:
Q Okay, but your interpretation that they're related to public transportation, if that's what you interpreted, is directly contrary to what the representative from the PSC told you on the phone, correct?
MR. HOPE: Objection to the form.
THE WITNESS: It's different than what it says here.
BY MR. GOLDBERG:
Q **Which means it's different from what** the PSC representative told you on the phone, correct?
MR. HOPE: Objection to form.

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THE WITNESS: It's different from what I wrote in here that he said.
BY MR. GOLDBERG:
Q **So then you'd agree with me that your** decision not to file an application -- the County's decision not to file an application disregarded what this PSC representative said on the phone on October 26, 2001?
MR. HOPE: Objection to form.
THE WITNESS: No, this is two and a half lines out of many paragraphs that address this issue and the actual chapter of the Florida statutes, so --
BY MR. GOLDBERG:
Q Let me restate my question. I don't mean to be argumentative, but you're not answering my question.
The County's decision not to file an application disregarded what the PSC representative said on the phone to you on October 26, 2001 as referenced by your notes?
A No, we didn't disregard it.
MR. HOPE: Objection to form.
THE WITNESS: We considered it as part of the decision-making, along with

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other information pertinent to the issue.
BY MR. GOLDBERG:
Q So let me rephrase the question. I understand your point. What you're saying is the County's decision not to file an application considered what the PSC representative said on the phone on October 26th, 2001, but did not agree with what the representative said?
MR. HOPE: Objection to form.
THE WITNESS: Well, we didn't take this literally the way I wrote it here, because there are exceptions to -- and interpretations that are more than what -- these two and a half lines in here.
So it was taken that maybe I didn't write the whole thing -- this was the beginning of the discovery process. I don't think I even knew at the time that we had hotel trunk partitions and things like that, so that's why this was taken for what it is: just a phone conversation and part of the discovery process.
BY MR. GOLDBERG:
Q Suffice to say you did not follow the PSC representative's directions as stated on that

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phone call?
MR. HOPE: Objection to form.
BY MR. GOLDBERG:
Q Because if you had you would have needed to file an application, correct?
MR. HOPE: Objection to form.
BY MR. GOLDBERG:
Q At the end of the day, I'm saying, you did not follow what you wrote that the PSC representative stated on October 26, 2001?
MR. HOPE: Objection to form.
THE WITNESS: I did not follow what these two and a half lines says, right.
BY MR. GOLDBERG:
Q Did you give considerable weight or ascribe some importance to what a PSC representative said on this issue?
A Of course, we took everything here and investigated further almost every word that it says here.
This was not an official ruling the way we took it, it was just a casual conversation with this fellow. It wasn't taken to be an official ruling from the PSC, which every word means what it says.

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And, you know, and I would -- and I was just taking notes as we spoke on the phone, so. . .
Q Well, subsequent to this phone call, and according to your testimony here today, you took into account other factors such as Orlando Airport and your view of the airport exemption rule, did you ever make an effort to call back up the PSC and speak to the PSC representative, similar to what you did on October 26, 2001, and ask them for some clarification given your contrary view?
MR. HOPE: Objection to form.
THE WITNESS: No, I don't recall doing that.
BY MR. GOLDBERG:
Q Why not?
A Just didn't do it.
Q Since there was an objection to form, let me ask it this way: Subsequent to October 26, 2001 did you ever follow up with the PSC to review any other information or -- any other information that was being taken into account in making a decision whether to apply or not to apply for a certificate?
A Did I ever file something with them?

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No.
Q Subsequent to October 26, 2001 did you ever follow up --
A Oh, follow up?
Q -- with the PSC?
A Oh, I don't recall, no.
Q -- with the PSC to discuss with them any other information that came to your attention with respect to whether or not you should file or not file a certificate?
A I don't recall, but I didn't recall this conversation until you showed it to me, but it's possible, but I don't recall following up.
Q And then the last line of your note says, on this issue: In any event, trunks will have to be partitioned.
Doesn't that say to you that what the PSC representative said was, separate and apart from whether or not you're providing service related or not related to public transportation and you need to file an application, in any event, separate and apart, the trunks will have to be partitioned?
Was that your understanding?
MR. HOPE: Objection to form.

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THE WITNESS: My understanding was that trunks will have to be partitioned.
Like I said, this was just capsules of statements, and at the time I didn't even know we had already partitioned the hotel trunks.
BY MR. GOLDBERG:
Q But at the time in 2002, with respect to partitioning, were any other trunks partitioned by the County separate and apart from the hotel?
A No, they're not partitioned, and they're not partitioned now.
Q A number of months ago, maybe two months ago you gave a deposition stating that currently the County was in the process of examining whether or not to partition the trunks at the airport. Has that -- has a decision been made on that issue?
A It's not whether to partition or not. What is being looked at is the cost, time and so forth of what it would take to partition the trunks.
Q How is that different from the question I asked?

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A Because we didn't ask anybody to make a decision, we just asked Nextira to tell us what would it take to partition the trunks.
Q Have you received a response from Nextira as we sit here today?
A No.
MR. HOPE: Before you go on to continue with the document, will you stipulate that this document and the questions that have gone back and forth serve to amend Mr. Garcia's initial answer in terms of the steps and what he looked at in the analysis as to whether or not the County should seek certification?
He had initially only identified two things, this is a third things --
MR. GOLDBERG: No, and I don't want a speaking objection to help his testimony.
MR. HOPE: Well, it's not an objection, I'm asking you whether or not you're going to stipulate.
MR. GOLDBERG: No, no, I'm not. The answer is no.

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MR. HOPE: Okay.
BY MR. GOLDBERG:
Q Can you read the bottom half of your notes?
A It takes two months, once they receive the application, 12 days before the next commission meeting, and then a fax number for Myra Bustamante.
Q Do you recall taking -- strike that.
Let me ask you to turn the page to the next document, F.P.S.C. Alphabetical Listing. Have you seen this document before?
A I'm sure I have.
Q How did the County obtain this document?
A I don't recall. I don't know.
Q Do you know what this document lists?
A I would imagine it means entities that have been given shared tenant service certificates.
Q And do you see in the middle of the page that it has Hillsborough County Aviation Authority?
A Yes, I do.
Q That's another airport in Florida, correct?

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A Yes.
Q Why was that not considered in your decision as to whether to apply or not to apply?
A I don't think I saw that as related to the previous e-mail. I don't think I made the connection between this thing and the e-mail that listed the Hillsborough Airport before.
I don't recall that connection being made or. . .
Q But you're not aware of any efforts to investigate why Hillsborough County Aviation Authority had a certificate?
A No.
I also don't see Tampa Airport here, and they told me they had a certificate.
MR. HOPE: Hillsborough County includes Tampa.
THE WITNESS: Oh, that's what it is? Then it must be that, same thing.
BY MR. GOLDBERG:
Q Can we go to the next document? Are these your notes?
A Yes.
Q Can you tell me -- this is -- what's the date up top?

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A 10/20, I don't know, I can't read, 10/26?
Q And could you read the notes for me?
A Says 10/26/01, STS meeting, in the corner it says Maurice, and that's my boss, Maurice Jenkins, and David Hope.
Finance will bill for services. Check, something, I don't know, I can't read.
BCC, that's the Board of County Commissioners, approval required, (liability).
Orlando, Tampa.
STS business plan, should we do it?
STS certificate in the name of Miami-Dade County.
Q What does the BCC, Board of County Commissioners' approval required, and in parentheses liability mean? Why was that written?
A I think this was probably issues that were brought up that required further investigation.
We were -- it was just a note to investigate whether the Board of County Commissioners needed to approve the airport providing STS services.
Q Why is Orlando and Tampa mentioned here?

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A Just as a memory jogger, to contact them and see what they were doing there.
Q And would you agree now that, you know, per your testimony, Orlando per Mr. Robinson did not apply for a certificate, but Tampa or Hillsborough does have a certificate?
A Orlando did not apply because the PSC told them that they didn't need to apply.
And Tampa applied and didn't have STS services, and she couldn't tell me why she applied.
Q When you say STS business plan next, what does that refer to?
A Well, it's a question related to was it -- is it profitable or does it make sense businesswise for the airport to do this or not.
Q To do what or not?
A To provide STS services.
Q And when you say from a business sense, what's that mean?
A Well, are we going to lose our shirt doing this, or at least are we going to break even, or is it good for the airport? Can we afford to do this?
Q Can -- in other words can the airport

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make money from doing it?
A No, I want to make sure we were not going to lose any money doing it.
Q And what was the end result on that question?
A Well, obviously the result was to go ahead and do it, since we were hiring a lot of people to do the -- maintaining our telecommunications infrastructure, so it was hard to separate the cost of one from the other, but it was decided to go ahead and do it.
Q And it says, lastly, STS certificate in the name of Miami-Dade County. What led you to write that?
A Well, at the time we were still trying to discover whether we should get a certificate or not, and if we were to get a certificate, it had to be in the name of Miami-Dade County, not of, let's say, versus in the name of the airport or some other name.
Q And let me ask you to look at the last document, almost the last document, this is another application to the Public Service Commission, is that correct?
A Yes.

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Q And do you recognize this document?
A It looks like a typed version of the previous one that we went through was handwritten.
Q So the County went as far as to prepare a typed version of the application, correct?
MR. HOPE: Objection to form.
MR. GOLDBERG: Correct?
THE WITNESS: Yeah, we typed the handwritten form, yes.
BY MR. GOLDBERG:
Q Then the last document in this composite exhibit is Florida Public Service Commission detailed information for Hillsborough County Aviation Authority print off of, it appears to be the PSC's website, is that accurate?
A Yeah, looks that way, yes.
Q Is that your handwriting in the notes below, on the bottom half of the page?
A Right, I talked to -- I called the lady, the Sharon Weaver, and this is what she told me basically on this phone.
Q Can you read that to me, your notes?
A Yes, have license since 1995, not using

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it, have 700 phones in the airport authority, have 2 switches, NEC and Verizon, have two technicians to do MAC -- M-A-C -- have contract agreement.
Q Did you come to understand why they -- why she said they are not using the certificate?
A What that means is they're not providing services to anybody other than their port authority staff.
Q Show you what's been marked -- what I'll mark as Cert-7.
MR. HOPE: Thank you.
BY MR. GOLDBERG:
Q This is an e-mail from Rick Moses at the PSC to Maurice Jenkins entitled Certification Issues.
Have you seen this document before?
A I don't recall seeing it.
Q It says: "I have been informed that the Miami Airport may be providing telephone service beyond its current authority. Pursuant to Rule 25-24.580, Florida Administrative Code, an airport is exempt from the certification requirements of this commission as long as it is only providing telephone service necessary to

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ensure the safe and efficient transportation of passengers and freight through the airport facility. Therefore, any services provided to entities such as concession stands, restaurants or hotels would be outside of the exemption, and certification would be required before telephone service can be provided. Please respond with a list of entities served by the Miami Airport by March 10th, 2003."
Let me focus you on the second paragraph there where it says: "Therefore, any services provided to entities such as concession stands, restaurants or hotels would be outside of the exemption and certification would be required before telephone service can be provided."
Is that statement -- strike that.
Is not that statement contrary to the position you took or the County took when it decided not to apply for a certificate?
A Yes.
Q Is not that statement contrary to your interpretation of the airport exemption rule which you've testified to in this deposition today?
A Yes.

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Q Is not that statement consistent with what the PSC representative told you on the phone as documented by your notes on October 26, 2001?
MR. HOPE: Objection to form.
THE WITNESS: Not necessarily.
BY MR. GOLDBERG:
Q Explain why you say not necessarily.
A The other statement was not -- this seems to be very specific. The other one again was my handwritten notes of a conversation and it just doesn't have -- this one seems to be more specific to the point than what the -- my conversation was.
Q Did you ever have a conversation with Mr. Jenkins regarding the PSC's position as articulated in this e-mail from Rick Moses?
A I don't recall having a conversation.
Q Did you ever discuss Mr. Moses' e-mail and the position he took, that the County would require -- strike that.
Did you ever discuss this -- the PSC's position as articulated in this e-mail with anybody at the County?
A I don't remember, I don't remember seeing this e-mail before.

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Q The e-mail concludes by saying: "Please respond with a list of entities served by the Miami Airport by March 10th.
Let me show you what I'll mark as Cert-8.
MR. HOPE: Thank you.
BY MR. GOLDBERG:
Q Is this an e-mail from you to Rick Moses dated March 17, 2003?
A Yes.
Q And you copied Maurice Jenkins, Maria Perez and Anthony Brown?
A Yes.
Q It's entitled MIA, STS List?
A Yes.
Q And did you type to Mr. Moses the following message: "Mr. Moses, attached is the list that you requested"?
A Yes.
Q And does this exhibit contain as a second page the customer list for the County as of February 2003 that you transmitted to Mr. Moses?
A Yes.
Q How did it come to be that you

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responded to Mr. Moses on behalf of Mr. Jenkins as a result of Mr. Moses' prior e-mail marked Cert-7?
A It was probably that Mr. Jenkins, my boss, asked me to forward to Mr. Moses this information, and I requested this information from probably Maria Perez, that worked for me, and she provided to me, and I forwarded it to Mr. Moses.
Q Did this interaction with the PSC cause any concern on your behalf or Mr. Jenkins' behalf that perhaps you were not complying with the law?
A I just took it as somebody wanted information from us.
I don't recall how much I knew about this exchange between Mr. Moses and Mr. Jenkins.
Q Is it an everyday occurrence that the Florida Public Service Commission asks for your customer list?
MR. HOPE: Objection to form.
THE WITNESS: No.
BY MR. GOLDBERG:
Q **Are you suggesting** that this was a non-event to you?
MR. HOPE: Objection to form.

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THE WITNESS: No, I'm not suggesting that
BY MR. GOLDBERG:
Q When you were asked to send this list to the PSC did you ask Mr. Jenkins why?
A He's my boss, I don't question his motives, what he wants to do.
Q Didn't you and he, just a year to a year and a half earlier, make the decision not to apply for certification with the PSC?
A Yes.
Q **So** wouldn't that be a relevant subject area for you and he to discuss, not, you know, just take a directive as you're phrasing it here today?
MR. HOPE: Objection to form.
THE WITNESS: Not necessarily. In this case he asked me to do something and I did it.
You know, we have a very busy schedule at the airport, I don't have time to question everything that he wants to do.
BY MR. GOLDBERG:
Q **Are you familiar with an entity called** the Florida Airport Managers Association?

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A I'm not a member of that, I'm not familiar with it.
Q Okay, I understand your testimony you're not a member of it, have you ever heard of that organization before?
A Maybe. I don't recall.
Q Do you know of anybody who is a member?
A Not firsthand.
Q Does the Miami International Airport have an airport manager?
A We have many managers. Every division is headed by a manager.
Q Are you aware of any discussion the County has had with Nextira with respect to whether or not Nextira had a PSC certificate?
A We asked them and they told us that they didn't have done.
Q Who did you ask at Nextira, and when?
A I asked Pedro de Camillo, the last name is d-e, C-a-m-i-l-l-o, he is the manager, site manager of all the Nextira staff residing at the airport that worked for us, and he told me that they didn't have one.
And I don't recall when I asked him, but it was probably at the time that all this

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2001 stuff was going on, at the end of 2001.
And I asked him why, and I think he just shrugged his shoulders, no, we just didn't have one.
Actually, that was another input, now that I recall, why we felt that we didn't need one: because Nextira was providing the services and they didn't have one, and nobody has made any issue out of it, so. . .
MR. GOLDBERG: At this time I don't have any further questions.
MR. HOPE: I don't have any.
MR. GOLDBERG: Do you have any cross?
MR. HOPE: No.
We'll read.
MR. GOLDBERG: Thank you, Mr. Garcia, for appearing for the deposition today.
THE WITNESS: You're welcome.
THE VIDEOGRAPHER: Going off the record
THE REPORTER: Do you want this?
MR. GOLDBERG: Yes.
MR. HOPE: Yes.
(Thereupon, at 1:15 p.m., the deposition was concluded)

PEDRO J. GARCIA

Sworn to and subscribed before me
this _____ day of _____, 2005.

_____
Notary Public in and for
The State of Florida at Large.

CERTIFICATE OF NOTARY

STATE OF FLORIDA:
SS:
COUNTY OF MIAMI-DADE:

I, CLAUDIA REAM-PINEDO, a Registered Professional Reporter and Notary Public in and for the State of Florida at Large, do hereby certify that I reported in shorthand the deposition of PEDRO J. GARCIA, a witness called by the plaintiff in the above-styled cause; that the witness was first duly sworn by me; that the reading and signing of the deposition were not waived by the witness; that the foregoing pages, numbered from 1 to 131 inclusive, constitute a true record.

I further certify that I am not an attorney or counsel of any of the parties, nor related to any of the parties, nor financially interested in the action.

WITNESS my Hand and Official Seal this 27th day of December, 2004.

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2002 26:3,5 35:12 37:14,23 38:4 39:21 47:4 48:6 48:21 49:15 54:10 54:23 55:4,11 56:14 57:6 60:24 66:23 68:14 93:5 114:8
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27th 131:19

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Exhibit I

PLAINTIFF'S EXHIBIT
2
5-21-03 LDS

-----Original Message-----
From: Pedro Garcia [mailto:PJGarcia@miami-airport.com]
Sent: Monday, March 17, 2003 5:18 PM
To: rmoses@psc.state.fl.us
Cc: Maurice Jenkins; Maria Perez; Anthony Brown
Subject: MIa STS List

Mr. Moses,

Attached is the list that you requested.

<<SATS Customer List.xls>>

Pedro J. Garcia
Chief, Telecommunications
Miami-Dade Aviation Department
Phone: 305 876-7523
Fax: 305 869-1413

> The Miami-Dade County Aviation Department is a public agency subject to Chapter 119 of the Florida Statutes concerning public records. E-mail messages are covered under such laws and thus subject to disclosure. All e-mail sent and received is captured by our server and kept as a public record.
>
>
>

EXHIBIT
tabbies
PSC-5

SATS CUSTOMER LIST AS OF 2/03

AIRLINES	GOVERNMENT AGENCIES	CONCESSIONS/OTHERS	MANAGEMENT COMPANIES
ACES GROUP	CENTER FOR DISEASE CONTROL	ADT	AIRPORT PARKING ASSOCIATES (MEYERS)
AEROMEXICO	TRI-COUNTY COMMUTER RAIL	ASI BAGGAGE	AVIATION CLUB B
AEROPOSTAL	US CUSTOMS	ASIG, MIAMI INC	AVIATION CLUB F
AIR FRANCE	USDA, APHIS	AT&T WIRELESS	CLUB AMERICA TWOV
AIR JAMAICA		CAFÉ VERSAILLES	MIAMI INTERNATIONAL AIRPORT HOTEL
AIR TRAN		CARRIES ICE CREAM	N&KI ENTERPRISES
ALASKAN AIRLINES		COMMUNITEL	NFL MANAGEMENT
AMERICAN AIRLINES		DATO ELECTRIC	QUALITY AIRCRAFT (SKYCAPS)
ASERCA AIRLINES		GLOBAL MIAMI JOINT VENTURE	SHUTTLE SERVICES
ATLAS AIR		GUAVA & JAVA	SIRGANY CENTURY
AVIANCA		HMS HOST	TERMINAL REXALL
BRITISH AIRWAYS		INTERMEDIA COMMUNICATIONS	TOP OF THE PORT
COMMODORE AVIATION		MATRIX SYSTEMS	UNICO
CONTINENTAL AIRLINES		MIAMI DUTY FREE	VISTA BLDG MANAGEMENT
COPA		SIRGANY BENCOMO	
CYBER EXPRESS		SITA	
,TCH CARIBBEAN AIRLINES		SMARTE CARTE	
EVERGREEN AVIATION		UNDERGROUND CONSTRUCTION	
FLAGSHIP AIRLINES		WORLDWIDE CONCESSIONS	
GULFSTREAM AIRLINES		WORLDWIDE FLIGHT SERVICES	
LAN CHILE			
MARTIN AIR			
MEXICANA			
POLAR AIR CARGO			
SWISS AIR			
TACA INT'L			
TAMPA AIRLINES			
UNITED AIRLINES			
VARIG			
VIRGIN ATLANTIC			

PLAINTIFF'S EXHIBIT 3 5-21-03 ADS

From: RMoses@PSC.STATE.FL.US
To: mjenkins@miami-airport.com
Subject: Certification Issues

I have been informed that the Miami Airport may be providing telephone service beyond its current authority. Pursuant to Rule 25-24.580, Florida Administrative Code, an airport is exempt from the certification requirements of this commission as long as it is only providing telephone service necessary to ensure the safe and efficient transportation of passengers and freight through the airport facility.

Therefore, any services provided to entities such as concession stands, restaurants, or hotels would be outside of the exemption and certification would be required before telephone service can be provided.

Please respond with a list of entities served by the Miami Airport by March 10, 2003. If you have questions, please contact me at 850/413-6582. Thank you.

EXHIBIT DSC-6

Exhibit J

12-10-01

Al Robinson – Orlando APT.

MGR Telecom.

407 - 825 - 3508

STS.

Safety Engineer

Rent a Car, Shops Concessions

POP Customers / PSC: APT is ONE Bldg

25.4 Public Law.

Care

MTCE Agreement

3 Telcom Analyst

1 " " (cabling person).

Bell South – T. & Mat.

They do their own MAC.

for Projects.

407 – 825 Prefix. They own.

8500

6000 STAT 1045

FS V. MDC(S) 000001

Nextiva STS

Phones
Cute w its PC's
Dry Pairs
Dark Fiber.

Develop Turn-over requirements
General Items.
Manual Delivery
Training.
Over Dep

On site Equipment.
20 Trucks /veh.
Office Eqpt

12 mo +

ARINC → CUTE
SITA →

STS Do we need to apply?
Call PSC.

Miami International Airport
P.O. Box 592075
Miami, Florida 33159

Miami-Dade County Attorney's Office

Fax

To: Myra Bustamante **From:** Pedro Garcia + David Stephen Hope, Assistant County Attorney

Fax: 7736 **Pages:** 2

Phone: **Date:** 12-7-01

Re: **CC:**

☑ **Urgent** x **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

• **Comments:**

Myra,

As we discussed.

Thanks,

Pedro

X-7523

From: Leonard Stout
To: David Hope; Pedro Garcia; Susan Pascul
Date: 12/7/01 2:01PM
Subject: Operation Next Step Contacts

Florida PSC
http://www.floridapsc.com/industry/telecomm/index.cfm

Denver Contact:
James Winston
Asst. Deputy Manager of Aviation, Telecommunications
303-342-2002
jim.winston@diadenver.net

Tampa Contact:
Sharon Weaver, Director of Administration
813-875-6670
sweaver@TampaAirport.com

Hillsborough County Aviation Authority (813) 870-8700

**** IMPORTANT NOTICE ****
The Miami-Dade County Aviation Department is a public agency subject to Chapter 119 of the Florida Statutes concerning public records. E-mail messages are covered under such laws and thus subject to disclosure. All e-mail sent and received is captured by our server and kept as a public record.

CC: Bobbie Phillips; Maurice Jenkins

Orlando APT.

Al Robinson Mgr. • Telcom

407 - 825 - 3500

aRobinson@goaa.org

Sid. — 12-7-01

7.5 Therm

6.5 US

BS V. MDC (5) 000008

10-26-01

PSC on STS

MAIN Number: (850) 413-6600

Jackie Gilcrest (boss)
Tom Williams 850 413-6586
Richard Moses 850 413-6582 He was at MIA 5-6 years ago looking at this issue.

If MIA is going to provide service not related to public transportation (Hotels, shops etc.) we need to file an application

In any event, trunks will have to be partitioned

It takes 2 months once they receive the application.

12 days before the next commission meeting.

Fax 7736 Myra Bustamante

BS V. MDC(5) 000017

F.P.S.C. Alphabetic Listing of Regulated Telecommunications Companies: Shared Tenant Service

Last Updated on 12/06/2001

Name	Company Code
Access Network Services, Inc.	TS171
Apex Professional Services, Inc.	TS151
Bayfront Health System, Inc.	TS156
Byron Financial & Management Corp. d/b/a Crown Suites & Message Center	TS080
Chicago Suites, Inc. d/b/a HQ Global Workplaces	TS190
City of Tallahassee	TS186
Corporate Offices At Phillips Point, Inc.	TS117
Cypress Communications, Inc. d/b/a Cypress Communications of South Florida, Inc.	TS187
Executive Business Centers, Inc.	TS183
Florida Tax Deeds, Inc. d/b/a Senator Building	TS142
Gaedeke Holdings Ltd.	TS181
Hillsborough County Aviation Authority	TS175
HTG Services, L.L.C.	TS191
Interlink Communications Partnership, LLC d/b/a Charter Communications	TS182
Intermedia Communications, Inc.	TS173
J.F.G. Associates, Inc.	TS169
JABS Real Estate Management Corp. d/b/a One Park Place Executive Suites	TS184
Sarasota Memorial Hospital	TS146
St. Vincent's Medical Center, Inc.	TS100
Suite Partners, Inc. d/b/a Summit Executive Suites	TS159
The Amera Corporation d/b/a Pathway Communications	
Travelers Media, Inc.	TS189
TVMAX Telecommunications, Inc. d/b/a OpTel	TS176
UniversalCom, Inc.	TS166
Vantas Management Virginia, Inc.	TS128
World Trade Center TPA, LTD.	TS188
WorldCom Technologies, Inc.	TS185

ES V. MDC(5) 000018

10-30-01

STS INTG

Maurice
D. Hope.

FINANCE and Bill for Services. - Check Ri.

BCC Approval Required (Liability)

ORLANDO TAMPA.

STS Bus Plan : Should we do it?

STS Certificate in the name of Miami-Dade City

FLORIDA PUBLIC SERVICE COMMISSION

DIVISION OF REGULATORY OVERSIGHT
CERTIFICATION SECTION

APPLICATION FORM FOR AUTHORITY TO PROVIDE SHARED TENANT SERVICE WITHIN THE STATE OF FLORIDA

INSTRUCTIONS

- This form is used as an application for an original certificate or for approval of the assignment or transfer of an existing certificate. In the case of an assignment or transfer, the information provided shall be for the assignee or transferee. No fee applies for approval of the assignment or transfer of an existing certificate to another certificated company.
- Print or type all responses to each item requested in the application. If an item is not applicable, please explain.
- Use a separate sheet for each answer which will not fit within the allotted space.
- Once completed, submit the original and six (6) copies of this form and a non-refundable application fee of $100.00 to:

  Florida Public Service Commission
  Division of Records and Reporting
  2540 Shumard Oak Blvd.
  Tallahassee, Florida 32399-0850
  (850) 413-6770

  NOTE: No filing fee is required for an assignment or transfer of an existing certificate to another company.

- If you have questions about completing the form, contact:

  Florida Public Service Commission
  Division of Regulatory Oversight
  Certification Section
  2540 Shumard Oak Blvd.
  Tallahassee, Florida 32399-0850
  (850) 413-6480

1. This is an application for (Check One):

(X) **Original Certificate**

( ) **Approval of Transfer of Existing Certificate**

Example: a non-certificated company purchases a certificated company and desires to retain the original certificate of authority.

( ) **Approval of Assignment of Existing Certificate**

Example: a certificated company purchases a certificated company and desires to retain the certificate of authority of that company.

( ) **Approval of transfer of control**

Example: a company purchases 51% of a certificated company. The Commission must approve the new controlling entity.

2. Name of company or name of individual (not fictitious name or d/b/a):

MIAMI-DADE ~~AVIATION DEPARTMENT~~ County

3. Name under which applicant will do business (fictitious name, etc.):

MIAMI-DADE ~~AVIATION DEPARTMENT~~ County

4. Official mailing address (including street name & number, Post Office Box, City, State, and Zip code):

MIAMI-DADE AVIATION DEPARTMENT
~~INFORMATION DIVISION~~ IS/T DIVISION
P. O. BOX 592075
MIAMI, FLORIDA 33159

Spell out

5. Florida address (including street name & number, Post Office Box, City, State, and Zip code):

MIAMI-DADE AVIATION DEPARTMENT
INFORMATION SYSTEMS DIVISION
P.O. BOX 592075 — Spell out
MIAMI, FLORIDA 33159

6. Structure of organization:

( ) Individual
( ) Foreign Corporation
( ) General Partnership
(X) Other: ~~COUNTY AIRPORT~~ POLITICAL SUBDIVISION (COUNTY)
( ) Corporation
( ) Foreign Partnership
( ) Limited Partnership

7. If individual, provide:

Name: _____

Title: _____

Address: _____

City/State/Zip: _____

Telephone No.: _____ Fax No.: _____

Internet E-Mail Address: _____

Internet Website Address: _____

8. If incorporated in Florida, provide proof of authority to operate in Florida:

(a) Florida Secretary of State Corporate Registration Number: _____ (TAX ID No)

9. If a foreign corporation, provide proof of authority to operate in Florida:

(a) Florida Secretary of State Corporate Registration Number: _____

10. If using fictitious name d/b/a, provide proof of compliance with the fictitious name statute (Chapter 865.09, Florida Statutes) to operate in Florida:

(a) Florida Secretary of State Fictitious Name Registration Number: _____

11. If a limited liability partnership, provide proof of registration to operate in Florida:

(a) Florida Secretary of State Registration Number: _____

12. If partnership, provide name, title and address of all partners and a copy of the partnership agreement:

(a) Name: _____

Title: _____

Address: _____

City/State/Zip: _____

Telephone No.: _____ Fax No.: _____

Internet E-Mail Address: _____

Internet Website Address: _____

(b) Name: _____

Title: _____

Address: _____

City/State/Zip: _____

Telephone No.: _____ Fax No.: _____

Internet E-Mail Address: _____

Internet Website Address: _____

13. If a foreign limited partnership, provide proof of compliance with the foreign limited partnership statute (Chapter 620.169, Florida Statutes):

(a) The Florida Registration Number: _____

14. Provide F.E.I. Number (if applicable): _____

15. Who will bill for your services?

Name: MIAMI-DADE AVIATION DEPT. - FINANCE

Address: P.O. Box 592616

City/State/Zip: MIAMI, FLORIDA 33159

Telephone No.: _____

16. Who will serve as liaison to the Commission with regard to the following?

(a) The application:

Name: MAURICE JENKINS

Title: MANAGER - INFORMATION SYSTEMS DIV. MIAMI INTERNATIONAL AIRPORT

Address: MIAMI-DADE AVIATION DEPT. - P.O. Box 592075

City/State/Zip: MIAMI, FLORIDA 33159

Telephone No. (305) 876-0934 Fax No.: (305) 876-0134

Internet E-Mail Address: MJENKINS@MIAMI-AIRPORT.COM

Internet Website Address: WWW.MIAMI-AIRPORT.COM

(b) Official Point of Contact for ongoing company operations including complaints and inquiries:

X Name: ~~MARIA PEREZ~~ PEDRO J. GARCIA

Title: ~~TEL SYSTEMS SUPERVISOR~~ Chief of Telecommunications MIAMI INTERNATIONAL AIRPO

Address: MIAMI-DADE AVIATION DEPT. - P.O. Box 592075

City/State/Zip: MIAMI, FLORIDA 33159

Telephone No.: (305) 876-7092 Fax No.: (305) 876-0993

Internet E-Mail Address: MPEREZ@MIAMI-AIRPORT.COM

Internet Website Address: WWW.MIAMI-AIRPORT.COM

(c) Complaint/Inquiries from Customers:

Name: LORRAINE JONES
Title: CUSTOMER SERVICE REP.
Address: MIAMI-DADE AVIATION DEPT. - MIAMI INTERNATIONAL AIRPORT
City/State/Zip: P.O. Box 592075, MIAMI, FLORIDA 33159
Telephone No.: (305) 876-0938 Fax No.: (305) 876-0993
Internet E-Mail Address: LJONES@MIAMI-AIRPORT.COM
Internet Website Address: WWW.MIAMI-AIRPORT.COM

17. List the states in which the applicant:

(a) has applications pending to be certificated as a shared tenant service provider.

NONE

(b) is certificated to operate as a shared tenant service provider.

NONE

(c) has been denied authority to operate as a shared tenant service provider and the circumstances involved.

NONE

(d) has had regulatory penalties imposed for violations of telecommunications statutes, rules, or orders and the circumstances involved.

NONE

(e) has been involved in civil court proceedings with an interexchange carrier, local exchange company or other telecommunications entity, and the circumstances involved.

NONE

18. Indicate if any officers, directors, or any of the ten largest stockholders have previously been:

(a) adjudged bankrupt, mentally incompetent, or found guilty of any felony or of any crime, or whether such actions may result from pending proceedings. If so, provide explanation:

N/A

(b) Officer, director, partner or stockholder and any other Florida certificated telephone company. If yes, give name of company and relationship. If no longer associated with company, give reason why not.

N/A

7736

19. Submit the following.

T.O. + Resumes

A. Managerial Capability

Give resumes of employees and officers of the company that would indicate sufficient managerial experiences of each.

B. Technical Capability

Give resumes of employees and officers of the company that would indicate sufficient technical experience or indicate what company has been contracted to perform technical service.

?

C. Financial Capability

The application must contain the applicant's audited financial statements for the most recent 3 years. If the applicant does not have audited financial statements, it shall so be stated.

The unaudited financial statements must be signed by the applicant's chief executive officer and chief financial officers affirming that the financial statements are true and correct and must include:

FIN

1. the balance sheet;
2. income statement, and
3. statement of retained earnings.

NOTE: This documentation may include, but is not limited to, financial statements, a projected profit and loss statement, credit references, credit bureau reports, and descriptions of business relationships with financial institutions.

Further, the following (which includes supporting documentations) must be provided:

Finance

1. A written explanation that the applicant has sufficient financial capability to provide the requested service in the geographic area proposed to be served.

2. A written explanation that the applicant has sufficient financial capability to maintain the requested service.

3. A written explanation that the applicant has sufficient financial capability to meet its lease or ownership obligations.

AFFIDAVIT

By my signature below, I, the undersigned officer, attest to the accuracy of the information contained in this application and attached documents and that the applicant has the technical expertise, managerial ability, and financial capability to provide shared tenant service in the State of Florida. I have read the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of my company and agree to comply, now and in the future, with all applicable Commission rules and orders.

I will comply with all current and future Commission requirements regarding shared tenant services. I understand that I am required to pay a regulatory assessment fee (minimum of $50.00 per calendar year) and pay gross receipts tax. Furthermore, I agree to keep the Commission advised of any changes in the names or addresses listed in the application within 10 days of the change.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

UTILITY OFFICIAL:

_____	_____
Print Name	Signature
_____	_____
Title	Date
_____	_____
Telephone No.	Fax No.

Address: _____

_____

_____

_____

_____

CERTIFICATE TRANSFER OR ASSIGNMENT STATEMENT

I, (Name)_____

(Title)_____

of (Name of Company) _____

and current holder of Florida Public Service Commission Certificate Number # _____

have reviewed this application and join in the petitioner's request for a:

( ) transfer

( ) assignment

of the above-mentioned certificate.

UTILITY OFFICIAL:

Print Name	**Signature**
Title	**Date**
Telephone No.	Fax No.

Address: _____

_____

_____

_____

_____

Form PSC/CMU-37 (07/97)
Required by Commission Rule Nos. 25-24.565,
25-24.580 and 25-24.55[illegible]

APPLICANT ACKNOWLEDGMENT STATEMENT

1. REGULATORY ASSESSMENT FEE: I understand that all telephone companies must pay a regulatory assessment fee in the amount of **0.15 of one percent** of the gross operating revenue derived from intrastate business. Regardless of the gross operating revenue of a company, a minimum annual assessment fee of $50 is required.

2. GROSS RECEIPTS TAX: I understand that all telephone companies must pay a gross receipts tax of **two and one-half percent** on all intra- and interstate business.

3. SALES TAX: I understand that a **seven percent** sales tax must be paid on intra- and interstate revenues.

4. APPLICATION FEE: I understand that a non-refundable application fee of **$100.00** must be submitted with the application.

UTILITY OFFICIAL:

Print Name	Signature
Title	Date
Telephone No.	Fax No.

Address: _____

_____

_____

_____

_____

FLORIDA PUBLIC SERVICE COMMISSION

DIVISION OF REGULATORY OVERSIGHT
CERTIFICATION SECTION

APPLICATION FORM FOR AUTHORITY TO PROVIDE SHARED TENANT SERVICE WITHIN THE STATE OF FLORIDA

INSTRUCTIONS

- This form is used as an application for an original certificate or for approval of the assignment or transfer of an existing certificate. In the case of an assignment or transfer, the information provided shall be for the assignee or transferee. No fee applies for approval of the assignment or transfer of an existing certificate to another certificated company.
- Print or type all responses to each item requested in the application. If an item is not applicable, please explain.
- Use a separate sheet for each answer which will not fit within the allotted space.
- Once completed, submit the original and six (6) copies of this form and a non-refundable application fee of $100.00 to:

  Florida Public Service Commission
  Division of Records and Reporting
  2540 Shumard Oak Blvd.
  Tallahassee, Florida 32399-0850
  (850) 413-6770

  NOTE: No filing fee is required for an assignment or transfer of an existing certificate to another company.

- If you have questions about completing the form, contact:

  Florida Public Service Commission
  Division of Regulatory Oversight
  Certification Section
  2540 Shumard Oak Blvd.
  Tallahassee, Florida 32399-0850
  (850) 413-6480

1. This is an application for (Check One):

   (X) Original Certificate

   ( ) Approval of Transfer of Existing Certificate

   Example: a non-certificated company purchases a certificated company and desires to retain the original certificate of authority.

   ( ) Approval of Assignment of Existing Certificate

   Example: a certificated company purchases a certificated company and desires to retain the certificate of authority of that company.

   ( ) Approval of transfer of control

   Example: a company purchases 51% of a certificated company. The Commission must approve the new controlling entity.

2. Name of company or name of individual (not fictitious name or d/b/a):

   Miami-Dade County

3. Name under which applicant will do business (fictitious name, etc.):

   Miami-Dade County

4. Official mailing address (including street name & number, Post Office Box, City, State, and Zip code):

   Miami-Dade Aviation Department
   Information Systems/Telecommunications Division
   P.O. Box 592075
   Miami, Florida 33159

5. Florida address (including street name & number, Post Office Box, City, State, and Zip code):

Miami-Dad... iation Department

Information Systems/Telecommunications Division

P.O. Box 592075

Miami, Florida 33159

6. Structure of organization:

( ) Individual
( ) Corporation
( ) Foreign Corporation
( ) Foreign Partnership
( ) General Partnership
( ) Limited Partnership
(X) Other: Political Subdivision (County)

7. If individual, provide:

Name: _____

Title: _____

Address: _____

City/State/Zip: _____

Telephone No.: _____ Fax No.: _____

Internet E-Mail Address: _____

Internet Website Address: _____

8. If incorporated in Florida, provide proof of authority to operate in Florida:

(a) Florida Secretary of State Corporate Registration Number: _____

9. If a foreign corporation, provide proof of authority to operate in Florida:

(a) Florida Secretary of State Corporate Registration Number: _____

10. If using fictitious name d/b/a, provide proof of compliance with the fictitious name statute (Chapter 865.09, Florida Statutes) to operate in Florida:

(a) Florida Secretary of State Fictitious Name Registration Number: _____

11. If a limited liability partnership, provide proof of registration to operate in Florida:

(a) Florida Secretary of State Registration Number: _____

12. If partnership, provide name, title and address of all partners and a copy of the partnership agreement:

(a) Name: _____

Title: _____

Address: _____

City/State/Zip: _____

Telephone No.: _____ Fax No.: _____

Internet E-Mail Address: _____

Internet Website Address: _____

(b) Name: _____

Title: _____

Address: _____

City/State/Zip: _____

Telephone No.: _____ Fax No.: _____

Internet E-Mail Address: _____

Internet Website Address: _____

13. If a foreign limited partnership, provide proof of compliance with the foreign limited partnership statute (Chapter 620.169, Florida Statutes):

(a) The Florida Registration Number: _____

14. Provide F.E.I. Number (If applicable): _____

15. Who will bill for your services?

Name: Miami-Dade Aviation Dept. Finance

Address: P.O. Box 592616

City/State/Zip: Miami, Florida 33159

Telephone No.: _____

16. Who will serve as liaison to the Commission with regard to the following?

(a) The application:

Name: Maurice Jenkins

Title: Manager-Information Systems/Telecommunications Division

Address: Miami-Dade Aviation Dept. Miami Int'l Airport P.O. Box 592075

City/State/Zip: Miami, Florida 33159

Telephone No.: (305) 869-0934 Fax No.: (305) 876-0134

Internet E-Mail Address: mjenkins@miami-airport.com

Internet Website Address: www.miami-airport.com

(b) Official Point of Contact for ongoing company operations including complaints and inquiries:

Name: Pedro J. Garcia

Title: Chief of Telecommunications

Address: Miami-Dade Aviation Dept. Miami Int'l Airport P.O. Box 592075

City/State/Zip: Miami, Florida 33159

Telephone No.: (305) 876-7523 Fax No.: (305) 869-1413

Internet E-Mail Address: pjgarcia@miami-airport.com

Internet Website Address: www.miami-airport.com

(c) Complaint/Inquiries from Customers:

Name: Lorraine Jones

Title: Customer Service Rep.

Address: Miami-Dade Aviation Dept. Miami Int'l Airport P.O. Box 592075

City/State/Zip: Miami, Florida 33159

Telephone No.: (305) 876-0932 Fax No.: (305) 876-0993

Internet E-Mail Address: ljones@miami-airport.com

Internet Website Address: www.miami-airport.com

17. List the states in which the applicant:

(a) has applications pending to be certificated as a shared tenant service provider.

None

(b) is certificated to operate as a shared tenant service provider.

None

(c) has been denied authority to operate as a shared tenant service provider and the circumstances involved.

None

(d) has had regulatory penalties imposed for violations of telecommunications statutes, rules, or orders and the circumstances involved.

None

(e) has been involved in civil court proceedings with an interexchange carrier, local exchange company or other telecommunications entity, and the circumstances involved.

None

18. Indicate if any officers, directors, or any of the ten largest stockholders have previously been:

(a) adjudged bankrupt, mentally incompetent, or found guilty of any felony or of any crime, or whether such actions may result from pending proceedings. If so, provide explanation:

N/A

(b) Officer, director, partner or stockholder and any other Florida certificated telephone company. If yes, give name of company and relationship. If no longer associated with company, give reason why not.

N/A

19. Submit the following:

A. Managerial Capability

Give resumes of employees and officers of the company that would indicate sufficient managerial experiences of each.

B. Technical Capability

Give resumes of employees and officers of the company that would indicate sufficient technical experience or indicate what company has been contracted to perform technical service.

C. Financial Capability

The application must contain the applicant's audited financial statements for the most recent 3 years. If the applicant does not have audited financial statements, it shall so be stated.

The unaudited financial statements must be signed by the applicant's chief executive officer and chief financial officers affirming that the financial statements are true and correct and must include:

1. the balance sheet;
2. income statement, and
3. statement of retained earnings.

NOTE: This documentation may include, but is not limited to, financial statements, a projected profit and loss statement, credit references, credit bureau reports, and descriptions of business relationships with financial institutions.

Further, the following (which includes supporting documentations) must be provided:

1. A written explanation that the applicant has sufficient financial capability to provide the requested service in the geographic area proposed to be served.

2. A written explanation that the applicant has sufficient financial capability to maintain the requested service.

3. A written explanation that the applicant has sufficient financial capability to meet its lease or ownership obligations.

APPLICANT ACKNOWLEDGMENT STATEMENT

1. REGULATORY ASSESSMENT FEE: I understand that all telephone companies must pay a regulatory assessment fee in the amount of **0.15 of one percent** of the gross operating revenue derived from intrastate business. Regardless of the gross operating revenue of a company, a minimum annual assessment fee of $50 is required.

2. GROSS RECEIPTS TAX: I understand that all telephone companies must pay a gross receipts tax of two and one-half percent on all intra- and interstate business.

3. SALES TAX: I understand that a seven percent sales tax must be paid on intra- and interstate revenues.

4. APPLICATION FEE: I understand that a non-refundable application fee of **$100.00** must be submitted with the application.

UTILITY OFFICIAL:

Print Name	Signature
Title	Date
Telephone No.	Fax No.

Address: _____

_____

_____

_____

_____

Form PSC/CMU-37 (07/97)
Required by Commission Rule Nos. 25-24.565,
25-24.685, and 25-30.037

AFFIDAVIT

By my signature below, I, the undersigned officer, attest to the accuracy of the information contained in this application and attached documents and that the applicant has the technical expertise, managerial ability, and financial capability to provide shared tenant service in the State of Florida. I have read the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of my company and agree to comply, now and in the future, with all applicable Commission rules and orders.

I will comply with all current and future Commission requirements regarding shared tenant services. I understand that I am required to pay a regulatory assessment fee (minimum of $50.00 per calendar year) and pay gross receipts tax. Furthermore, I agree to keep the Commission advised of any changes in the names or addresses listed in the application within 10 days of the change.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

UTILITY OFFICIAL:

Print Name	Signature
Title	Date
Telephone No.	Fax No.

Address: _____

CERTIFICATE TRANSFER OR ASSIGNMENT STATEMENT

I, (Name) _____

(Title)_____

of (Name of Company) _____

and current holder of Florida Public Service Commission Certificate Number # _____

have reviewed this application and join in the petitioner's request for a:

( ) transfer

( ) assignment

of the above-mentioned certificate.

UTILITY OFFICIAL:

_____ _____

Print Name **Signature**

_____ _____

Title **Date**

_____ _____

Telephone No. **Fax No.**

Address: _____

_____

_____

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_____