

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

9202105

In re: Petition on behalf of CITIZENS)
OF THE STATE OF FLORIDA to initiate)
investigation into integrity of SOUTHERN)
BELL TELEPHONE & TELEGRAPH)
COMPANY'S repair service activities)
and reports.)

Docket No. 910163-TL
June 2, 1993

COPY

DEPOSITION OF DAVID LOBACH

The deposition of DAVID LOBACH in the above-captioned cause, taken by the Office of Public Counsel, before Jeannette E. Gross, Notary Public, at 712 Florida Avenue, Cocoa, Florida, on Thursday, June 10, 1993.

RECEIVED
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APPEARANCES:

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Florida Public Service Commission

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for Southern Bell Telephone
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for David Lobach

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RECORDS/REPORTING

1 DAVID LOBACH,
2 a witness herein, having been first duly sworn, was examined and
3 testified upon his oath as follows, beginning at 2:30 p.m.:

4 DIRECT EXAMINATION

5 BY MR. BECK:

6 Q Mr. Lobach -- am I pronouncing your name correctly?

7 A Right.

8 Q My name is Charlie Beck and I'm with the Office of
9 Public Counsel, and I'm going to be starting off with the
10 deposition. There are people from the Public Service Commission
11 here and they may be asking you some questions also.

12 Would you please state your name?

13 A David Lobach.

14 Q Are you employed by Southern Bell?

15 A Yes.

16 Q What position do you hold?

17 A Network tech.

18 Q Could you briefly describe what that position entails?

19 A We build, and install, and maintain Nineteen Eleven
20 equipment and all the data, special circuits, alarms, and so
21 forth.

22 Q With respect to the special circuits, is that also
23 building, installing, and maintaining those circuits?

24 A Yes.

25 Q Are you based out of Cocoa?

1 A Melbourne.

2 Q How long have you had that position?

3 A Two years.

4 Q What did you do before that?

5 A I was a cable repair technician on the West Coast of
6 Florida, out of the Chiefland office, working at Gainesville.

7 Q Could you briefly describe your job that you did there?

8 A We maintained the cable and the carrier systems in the
9 three Bell counties over there, a little pocket of Southern Bell,
10 Levi, Gilcrest and Dixie County.

11 Q Do you recall about how long you were in Chiefland?

12 A Eleven years.

13 Q Have you given a statement to Southern Bell
14 investigators previously?

15 A Yes.

16 Q Was it just one time or more?

17 A One time.

18 Q Do you recall about when that was?

19 A The winter of Ninety, maybe, would be a guess.

20 Q So you were still in Chiefland when you gave the
21 statement?

22 A I gave the statement -- yes, I was working out of
23 Chiefland. I gave the statement in Gainesville.

24 Q Okay. Do you recall either the names or the positions
25 of the people who were present when you gave a statement before?

1 A There was a lady attorney -- I don't know where she was
2 from -- and there was a security man from Tennessee.

3 Q Was anybody from the union there?

4 A No.

5 Q What did your job entail relating to the maintenance
6 administrators? Was there any interaction between you at your
7 job in Chiefland?

8 A Yes, we had to get our trouble from a maintenance
9 administrator, and when you closed the trouble out, you closed it
10 out with a maintenance administrator.

11 Q Did you do repairs on all types of troubles, or were
12 they specific to just cable?

13 A Cable, cable and carriers.

14 Q Do you recall the name of your supervisor in Chiefland?

15 A John Myers.

16 Q Did you have any other supervisors, do you recall,
17 while you were there?

18 A I can't think of the man's last name. I had John Myers
19 for maybe five years, and before him there was another man, Van
20 something, but I can't think of his last name.

21 Q Callamatti? Did you ever talk with a fellow there --

22 A I can't remember ever talking to him.

23 Q Are you familiar with the distinction between the clear
24 time and close time on trouble reports?

25 A Yes.

1 Q Can you tell me what the difference is between them?

2 A Clear time is when the customer is back in service, and
3 the end time is the time when the job is basically complete.

4 Q Is the clear time one of the things that you would have
5 to tell the maintenance administrator when you called in the
6 trouble?

7 A Yes.

8 Q Have you ever had an occasion where somebody suggested
9 to you, or told you to back up the clear time on a trouble report
10 to a time earlier than when the service was restored?

11 A Yes.

12 Q Could you describe that? What happened?

13 A I was just told to, you know, "Make sure you meet the
14 commitment on this particular trouble," the commitment being the
15 time the customer has to be cleared by.

16 Q Okay. Do you recall who told you that?

17 A A number of times Gainesville
18 Testing had many managers.

19 MR. THOMPSON: Let him ask you and then you answer.

20 BY MR. BECK:

21 Q Both were in Gainesville; were they not?

22 A Yes.

23 Q I'm trying to get clear exactly what it was they told
24 you to do on these occasions. Would they tell you to back up the
25 clear time so it would be fixed within twenty-four hours?

1 A Yes.

2 Q Would they tell you to do that even if the trouble was
3 not fixed in a twenty-four hour period?

4 A One more time?

5 Q Would they tell you to report a clear time within a
6 twenty-four hour time period even if the trouble wasn't cleared
7 in a twenty-four hour period?

8 A Right.

9 Q Did they tell you that directly?

10 A The commitment time is thus and so, make sure you meet
11 it.

12 Q What was your response to them?

13 A Okay.

14 Q I'm sorry, your response to them was, okay?

15 A Uh-huh.

16 Q And you understood that to mean that you were to report
17 it being fixed within a twenty-four hour period no matter how
18 long it took you?

19 MR. BEATTY: Object to the form of the question. It's
20 leading.

21 MR. THOMPSON: I'm going to object -- you're maybe
22 getting close to -- I don't know whether there would be any
23 exposure to any kind of criminal prosecution, but I'm going
24 to instruct my client not to answer that question on the
25 grounds it may incriminate him.

1 BY MR. BECK:

2 Q On the occasions that you were given these
3 instructions, was a twenty-four hour period the item of focus on
4 those instructions?

5 A Yes.

6 Q What is your understanding of the twenty-four hour
7 index?

8 A You're -- as I understand it, the out-of-service -- the
9 figure of out-of-service carried over -- the percentage of out-
10 of-service cable troubles carried over. The lower the
11 percentage, the much better we looked.

12 Q Both and are managers in
13 Gainesville; are they not?

14 A Yes.

15 Q Wouldn't you normally have those types of conversations
16 with the maintenance administrators in Gainesville?

17 A Yes.

18 Q If you know, what brought in the managers to talk to
19 you about those reports?

20 A If you gave a -- if you didn't meet the commitment
21 times, they would put you on hold and get a manager to talk with
22 you.

23 Q So on those occasions when you talked to and
24 had you reported in a clear time that exceeded the twenty-
25 four hours?

1 A Yes.

2 Q And was it then that they told you to meet the
3 commitment time?

4 A Yes.

5 Q But the repair had already been accomplished by that
6 time; had it not?

7 A Yes.

8 Q Were there any other persons you recall, other than
9 and giving you those instructions?

10 A I can't -- no, I couldn't put a finger on anybody else.
11 I mean, to be honest with you.

12 Q Do you recall about how many times that may have
13 happened?

14 A Just a few times. You know, two or three times. And
15 then, of course, I wasn't stupid, and I realized what they
16 wanted.

17 Q Did you talk to any of the other people, other network
18 technicians or service techs in Chiefland, to see whether they
19 had similar experiences?

20 A Yes.

21 Q What did they tell you?

22 A Well, we were all --

23 MR. BEATTY: Although we have reserved -- we have a
24 standing reservation -- a standing objection to hearsay, I
25 would just, for the record, be redundant and object to that

1 as hearsay. You can respond.

2 A Do the question again, please.

3 Q I asked you whether you had talked to other technicians
4 and service technicians in Chiefland and whether they had had
5 similar problems, and what they told you?

6 A The same thing went on.

7 Q Was it your impression it was a common experience?

8 A Yes.

9 Q To the best you can, can you identify the time period
10 when this occurred?

11 MR. THOMPSON: When you say "this," are you referring
12 to other people talking to him?

13 BY MR. BECK:

14 Q Yes, either you experiencing it or other people telling
15 you they experienced similar occasions?

16 A It went on for two years prior to the investigation.

17 Q Would that be in the area of 1988, 1989?

18 A I'd have to say yes.

19 Q Was there a time period when that sort of thing
20 stopped?

21 A Yes.

22 Q When was that?

23 A The day after the investigation.

24 Q Did either or ever talk to you about
25 what you should tell Southern Bell investigators about backing up

1 times?

2 A No, no.

3 Q How about Mr. Gary Swilley; did he ever talk to you?

4 A No, this all became quite sudden.

5 Q Are you familiar with the cause code for lightning?

6 A Yes.

7 Q Okay. Could you tell me your understanding of when it
8 was appropriate to use that code?

9 A When is it appropriate to use the lightning code?

10 Q Yes.

11 A When lightning has done the damage.

12 Q Okay.

13 A Cause codes are, you know, kind of ambiguous. I mean,
14 lightning could mean anything. You know that; don't you?

15 Q Let me ask you, did anybody ever suggest to you to use
16 the lightning cause codes in instances where lightning was not,
17 in your opinion, the cause of trouble?

18 A No, I can't say that, no.

19 Q Did you ever have a suggestion to use some other cause
20 code other than lightning in instances when it wasn't appropriate
21 for the trouble report?

22 A No.

23 Q Are you familiar with exclude codes? Does that mean
24 anything to you?

25 A You'll have to let me just answer this -- I don't make

1 these tickets out any more so I'm not in that department any
2 more, so you'll have to help me with what the hell exclude codes
3 are.

4 Q But you're familiar with them?

5 A Yeah, but I forgot. I haven't made them out in two
6 years.

7 Q For example, if a hurricane happened, would that be an
8 exclude code, you'd put down act of god, for example?

9 A Hurricanes generally have a number assigned to the
10 hurricane. Everything is fifty-five blah blah, four digit
11 number.

12 Q speaking broadly, are there any instances that you're
13 aware of, or that you recall, where people told you to use some
14 sort of code on a trouble report that you didn't think applied?

15 A No, the coding -- I did the coding myself.

16 Q Okay. Other than the backing up of clear times that
17 you've already discussed, is there any other way in which people
18 have told you to do something you didn't think was right with
19 respect to a repair?

20 MR. THOMPSON: Object to the form of the question. It
21 assumes that he didn't -- it assumes something not admitted
22 or proven, which is basically what he thought about
23 anything. It assumes he thought something about what he
24 earlier testified to, and there is no evidence about what he
25 thought about those things.

1 BY MR. BECK:

2 Q Would you go ahead and answer?

3 A Ask me the question again.

4 Q I'm looking for any instance, not what you already
5 discussed today, but any other instances, where people told you
6 to do something with respect to a repair report that you didn't
7 feel was right?

8 A I can't think of any instance offhand.

9 MR. BECK: Thank you, that's all I have. There may be
10 some other questions.

11 CROSS-EXAMINATION

12 BY MR. PIERSON:

13 Q You said, in response to Mr. Beck's question, that the
14 lightning code was ambiguous. What did you mean by that?

15 A It's a great realm, lightning. It could take out a
16 carrier system, you know, destroy cable, you know, burn it down.
17 It's a very broad code.

18 Q But you --

19 A I was in Gainesville. There is an area across
20 Gainesville known as lightning alley. It's more hits in that one
21 span than anyplace in the nation. Lightning is a broad code for
22 us. We use it a great deal.

23 Q Saying it was ambiguous didn't mean it was used for
24 things that may or may not be lightning?

25 MR. BEATTY: Object to the form. It's leading. You

1 may respond.

2 A We blamed a lot on lightning.

3 Q For instance, if there was something that could have
4 been lightning but you didn't know, would you blame lightning?

5 A If it could have been, yes, but you've got to put a
6 code down, so you try to do your best.

7 Q Did or ever suggest that you back up
8 other commitment times besides those that were going over the
9 twenty-four hours?

10 MR. BEATTY: Do you understand the question?

11 THE WITNESS: No.

12 BY MR. PIERSON:

13 Q If you had a commitment time to be at a customer's
14 premises at one o'clock and you didn't get there till two -- I'm
15 not sure how the commitment codes work.

16 A For a cable repair --

17 MR. THOMPSON: Let him ask the question then you answer
18 it.

19 BY MR. PIERSON:

20 Q My question is whether either of those gentlemen
21 instructed you, or suggested that you should back up commitment
22 times other than the twenty-four hour ones that you discussed
23 earlier?

24 MR. THOMPSON: Do you understand the question?

25 THE WITNESS: I understand what he's asking.

1 A The answer is no.

2 MR. PIERSON: That's all I have.

3 CROSS-EXAMINATION

4 BY MR. BEATTY:

5 Q I do have one. With regard to the questions asked of
6 you regarding lightning --

7 A Uh-huh.

8 Q -- was it your response that at all times when you used
9 the lightning code, that in your mind you used it appropriately?

10 A Yes.

11 MR. BEATTY: I have no questions.

12 (Deposition was concluded at 2:50 p.m.)

13 * * * * *

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
) SS
COUNTY OF BREVARD)

I, JEANNETTE E. GROSS, a Notary Public in and for the State of Florida at Large, do hereby certify that DAVID LOBACH personally appeared before me and was duly sworn.

WITNESS MY HAND and official seal this 21st day of June, 1993.

JEANNETTE E. GROSS, Notary Public

I, JEANNETTE E. GROSS, further certify that I was authorized to and did report the foregoing deposition; that the foregoing pages constitute a true and correct transcription, to the best of my ability, of the testimony given by the witness; and that the reading and signing were waived by the witness and counsel.

I FURTHER CERTIFY that I am neither a relative nor an employee of counsel, nor of either of the parties, and not financially interested in the event of this cause.

DATED THIS 21st day of June, 1993.

JEANNETTE E. GROSS, Notary Public

STATE OF FLORIDA)
) SS
COUNTY OF BREVARD)

The foregoing certificate was acknowledged before me this 21st day of June, 1993, by JEANNETTE E. GROSS, who is personally known to me.

Notary Public

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF BREVARD)

I, Jeannette E. Gross, Notary Public in and for the State of Florida at Large, hereby certify as follows:

That I was the court reporter who did report the deposition of David Lobach, at 712 Florida Avenue, Cocoa, Florida, on Thursday, June 13, 1993, and that said deposition has been transcribed by me under my direction and control.

That efforts have been made to have the deponent David Lobach sign his deposition in the form of a letter to him at the address provided, a copy of which is attached. The deponent has called this office and advised he would be in within a week, but has not appeared at this office to date.

That a reasonable effort has been made by this reporter.

THEREFORE, it is respectfully requested that this deposition be filed in compliance with the Florida Rules of Procedure as though the same had been duly signed by the deponent.

WITNESS MY HAND and official seal at Melbourne, Brevard County, Florida, this 9th day of August, 1993.

JEANNETTE E. GROSS, Court Reporter

BREVARD COURT REPORTERS, INC.
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Melbourne, Florida 32901

Melbourne (407) 952-5666 Toll Free 1-800-275-1170

June 22, 1993

David Lobach
7756 Greenboro Drive
West Melbourne, Florida 32904

RE: Citizens of the State of Florida vs. Southern Bell

Dear Mr. Lobach:

Your deposition, taken in the above-styled litigation on June 10, 1993, is now ready for you to read and sign in our office at 1775 West Hibiscus Boulevard, Suite 214, Melbourne, Florida. Our office hours are from 9:00 a.m. until 4:00 p.m.

If, for any reason, you choose to waive your signature or need directions to our office, please contact us at your earliest convenience at 952-5666 in Melbourne or 1-800-275-1170. The deposition will be held in our office for 10 days for your review.

Thank you for your cooperation in the matter.

Sincerely yours,

LaRaine Oaks
Office Manager