

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 991376-TL

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In the Matter of
INITIATION OF SHOW CAUSE PROCEEDINGS
AGAINST GTE FLORIDA INCORPORATED
FOR APPARENT VIOLATION OF SERVICE
STANDARDS
_____ /



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VOLUME 1

Pages 1 through 168

PROCEEDINGS: HEARING
BEFORE: CHAIRMAN E. LEON JACOBS, JR.
COMMISSIONER J. TERRY DEASON
COMMISSIONER LILA A. JABER
DATE: Thursday, June 21, 2001
TIME: Commenced at 9:30 a.m.
PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida
REPORTED BY: KORETTA E. STANFORD, RPR
FPSC Division of Records & Reporting
(850) 413-6734

1 APPEARANCES:

2 CHARLES J. BECK and JACK SHREVE, Deputy Public
3 Counsel, Office of Public Counsel, 111 West Madison Street,
4 Room 812, Tallahassee, Florida 32399-1400, appearing on behalf
5 of the Citizens of the State of Florida.

6 KIMBERLY CASWELL, Post Office Box 110, FLTC0007,
7 Tampa, Florida 33601, appearing on behalf of Verizon Florida,
8 Inc.

9 C. LEE FORDHAM, Florida Public Service Commission,
10 Division of Legal Services, 2540 Shumard Oak Boulevard,
11 Tallahassee, Florida 32399-0870, appearing on behalf of the
12 Commission Staff.

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I N D E X

1		
2	OPENING STATEMENTS:	PAGE NO.
3	By Mr. Beck	8
4	By Ms. Caswell	14
5		
6		
7		
8	NAME:	
9	DON McDONALD	
10	Direct Examination by Mr. Fordham	20
11	Prefiled Direct Testimony Inserted	22
12	Cross Examination by Mr. Beck	30
13	Cross Examination by Ms. Caswell	32
14	R. EARL POUCHER	
15	Direct Examination by Mr. Beck	45
16	Prefiled Direct Testimony Inserted	48
17	Cross Examination by Ms. Caswell	73
18		
19		
20		
21		
22		
23		
24		
25		

1 Index Continued:

2 EXHIBITS

3	NUMBER:	ID.	ADMTD.
4	1 Official Recognition Sheet	6	7
5	2 Responses to Staff's First Set of		
6	Interrogatories, Items 1-22	7	7
7	3 Deposition Transcript of Russell		
8	Diamond, Dated 2-23-00	8	8
9	4 Deposition Transcript of Russell		
	Diamond, Dated 4-30-01	8	8
10	5 DBM-1 through DBM-10	21	45
11	6 REP-1 through REP-21	46	
12	7 Defective OSP Capital	98	
13			
14	CERTIFICATE OF REPORTER		169

15

16

17

18

19

20

21

22

23

24

25

P R O C E E D I N G S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
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MR. FORDHAM: Pursuant to notice published June 1st, 2001, this time and place have been set for hearing in docket number 991376-TL for purposes set forth in the notice.

CHAIRMAN JACOBS: Take appearances.

MS. CASWELL: Kimberly Caswell for Verizon Florida.

MR. BECK: Charlie Beck and Jack Shreve, Office of the Public Counsel appearing on behalf of Florida citizens.

MR. FORDHAM: Lee Fordham, legal staff for the Florida Public Service Commission.

CHAIRMAN JACOBS: Very well. My indications are that there are no preliminary matters. Is that the case with all the parties?

MR. FORDHAM: None by Staff, Commissioner.

CHAIRMAN JACOBS: Wonderful. Do I see that we do have a time for opening statements?

MR. FORDHAM: Yes, Commissioner, they had asked for opening statements.

CHAIRMAN JACOBS: Okay. And that will be -- I guess, I didn't see, is there a time limit on that?

MR. FORDHAM: Ten minutes.

CHAIRMAN JACOBS: Very well. We'll allow ten minutes for opening statements. I see that you have some initial exhibits. Why don't we do that after we swear the witnesses in. Is that fine?

FLORIDA PUBLIC SERVICE COMMISSION

1 MR. FORDHAM: That will be fine, Commissioner. Staff
2 would ask that Stip 1, which is the Official Recognition List
3 be admitted as Exhibit 1. This was circulated to the parties
4 so it, in essence, has the input of all the parties.

5 CHAIRMAN JACOBS: Okay. We'll make sure there are no
6 objections at the proper time.

7 MS. CASWELL: Mr. Chairman, I do need to bring up one
8 issue. Mr. Beck and I have agreed to stipulate in the
9 depositions of Russell Diamond. There were two depositions,
10 one on April 20th, 2001 and one on February 23rd, 2000.

11 CHAIRMAN JACOBS: Since we brought it up, why don't
12 we go ahead and take care of those.

13 MS. CASWELL: Okay.

14 CHAIRMAN JACOBS: Since those are stipulated, we'll
15 go ahead and take care of -- there seems there are no
16 objections to Staff's Stipulation 1?

17 MR. BECK: No objections.

18 CHAIRMAN JACOBS: Okay. So, we'll mark that as
19 Exhibit 1.

20 (Exhibit 1 marked for identification.)

21

22 MR. FORDHAM: Commissioner, also, we'd like at this
23 time, if there's no objection, to go ahead and move Stip 2 into
24 evidence as Exhibit 2. Stip 2 is the collective responses to
25 Staff interrogatories.

1 CHAIRMAN JACOBS: I don't see a copy. Is that this
2 stack of information here? Show that marked as Exhibit 2.
3 That is Staff's Stipulation 2.

4 (Exhibit 2 marked for identification.)

5 CHAIRMAN JACOBS: Without objection, then, show
6 Exhibit 1 and Exhibit 2 are entered into the record.

7 (Exhibits 1 and 2 received in evidence.)

8 CHAIRMAN JACOBS: And, Ms. Caswell, we're going to
9 mark yours as Exhibit 3, and that's the --

10 MS. CASWELL: The depositions. Is that --

11 CHAIRMAN JACOBS: Yes, the depositions.

12 MS. CASWELL: Should we have a different exhibit
13 number for each one or consider them a composite?

14 CHAIRMAN JACOBS: I'm at your --

15 MS. CASWELL: I think, probably it would be better to
16 have two exhibit numbers.

17 CHAIRMAN JACOBS: Very well. So, we'll mark --

18 MS. CASWELL: February 23rd, 2000, can be Exhibit 3.

19 CHAIRMAN JACOBS: And that's the deposition of whom?

20 MS. CASWELL: Russell Diamond. And then, the April
21 30th, 2000 deposition can be Exhibit 4. That's also a Russell
22 Diamond deposition.

23 CHAIRMAN JACOBS: I'm sorry, the date on that again?

24 MS. CASWELL: April 30, 2001.

25 CHAIRMAN JACOBS: Show that marked as Exhibit 4.

1 (Exhibits 3 and 4 marked for identification.)

2 MS. CASWELL: Thank you.

3 CHAIRMAN JACOBS: And without objection, show
4 Exhibits 3 and 4 are entered into the record.

5 (Exhibits 3 and 4 admitted into the record.)

6 CHAIRMAN JACOBS: That takes care of all the
7 stipulations and preliminary matters, then we will swear all
8 the witnesses at this time. Would everyone who is here to
9 testify please stand and raise your right hand.

10 In this matter before the Florida Public Service
11 Commission do you swear or affirm that the testimony you're
12 about to give is the truth, the whole truth and nothing but the
13 truth?

14 ALL: I do.

15 CHAIRMAN JACOBS: Thank you very much. You may be
16 seated. And I show first witness is -- I'm sorry, already I
17 forgot. Opening statements. The order --

18 MR. BECK: Doesn't matter.

19 MS. CASWELL: I think, since the public counsel is
20 the accuser, as it were, they customarily go first.

21 CHAIRMAN JACOBS: They were the petitioner.

22 MR. BECK: We'd be happy to go first.

23 CHAIRMAN JACOBS: Go right ahead.

24 MR. BECK: Thank you.

25 Good morning, Commissioners. My name's Charlie Beck

FLORIDA PUBLIC SERVICE COMMISSION

1 with the Office of Public Counsel. The thrust of the case
2 before you this morning involves Verizon's repeated violations
3 of your minimum service standards continuously over a four-year
4 period. Your rules involve fundamental measures of service,
5 repairing service when it goes out and repairing it in 24
6 hours, and installing new service when a customer requests it,
7 your rule mandating that it be installed within three working
8 days.

9 Your rules are not absolute in that they give the
10 company a certain amount of leeway. On repairs, they have to
11 do 95% of the repairs within 24 hours in each exchange. And
12 for installation it's 90%, so you have a certain built in
13 margin for error for the companies.

14 Each single rule violation means that in an exchange
15 during a month the company, in totality for that exchange,
16 failed to meet your requirements and exceeded the threshold
17 that you allowed for failing to meet the 24-hour or three
18 working day requirements.

19 There are a number of things the Commission should
20 keep in mind about what was happening throughout this four-year
21 period. First of all, there's really no dispute about the
22 number of violations. With regard to your repair rule, there
23 were 179 violations in 1996, 124 in 1997, 164 in 1998, and 102
24 in 1999 for a total of 569 violations.

25 With regard to your installation rule, there were 26

1 violations in 1996, 13 in 1997, 18 in 1998 and 147 in 1999 for
2 a total of 204 installation violations. That makes a total
3 combined of 773 violations fairly continuously over the
4 four-year period.

5 They violated your rules in good weather and in bad
6 weather. They violated your rules, whether it was summer,
7 fall, winter, or spring. They violated whether there is
8 excessive rain and they violated when they were in a drought.

9 Verizon points you to their record subsequent to the
10 four-year period at issue in this case, but what they did then
11 has nothing do with this case. And you would think that they
12 would have come into compliance with your rule earlier than
13 2000, since the first year of the current three-year drought
14 occurred in 1999. Even during that first year of drought, they
15 violated your repair rule 102 times and your installation rule
16 204 times.

17 At the same time as the company was continuously
18 violating your rules, they were relentlessly cutting their
19 budget, diminishing the resources available to provide good
20 service to customers. The big picture of this can be seen in
21 Mr. Poucher's Exhibit Number 22, which is the first exhibit
22 attached to his Surrebuttal.

23 Verizon's 1995 cost per line was \$62.33. From there,
24 they aim for the mid 50s in 1996 to around 50 in 1997. By
25 1999, Verizon was aiming for the mid 40s compared to what they

1 had in 1995 of \$62.33. The president of the company, during
2 the first three years at issue in this case, was constantly
3 pleading with headquarters staff in Texas for more money so
4 they could fix the problems with their old plant, particularly
5 in Clearwater and St. Petersburg where the plant was very old.
6 But their answer was repeatedly for him to make due with what
7 was allotted to him.

8 Let me read to you from one of the exhibits that we
9 will offer into evidence, which is Mr. Poucher's Exhibit 5 at
10 Page 2. And this is a letter from Peter Daks, who was
11 president of Verizon Florida at that time to the Texas
12 superiors.

13 He told them that I know my continued position on
14 this subject may not be popular, but the TAC focus program,
15 which is a maintenance program of the company, presently in
16 place does not have sufficient analysis to provide a
17 maintenance program we need to fix areas like St. Petersburg
18 and Clearwater. We have got to identify those outside plant
19 issues and find the dollars to fix outside plant and prevent
20 the amount of trouble that we have experienced this year in the
21 future. This is affecting our ability to deliver quality and
22 cost objectives.

23 These are the facts. We've offered you 42 separate
24 exhibits sponsored by Mr. Poucher, and the great preponderance
25 of these exhibits are the company's own documents. They made

1 drastic budget reductions, and they were very successful in
2 cutting their costs. They may point out to you that they went
3 over budget year after year, it was about \$8 million that they
4 year after year missed their budget, but what was happening was
5 that their drastic budget reductions were having service fall
6 apart, and as they scrambled to try to bring their standards up
7 a bit, they still failed. In other words, budget cuts were so
8 drastic that even by going over budget they couldn't come into
9 compliance with the rule. That shows you that the cutting
10 costs was the priority at Verizon and the service quality was
11 secondary.

12 Now, could the company have met the rule if they
13 wanted to? We'd ask you to look, as one example, to look at
14 the service they provide to their business customers. We'll be
15 asking John Ferrell during cross examination about documents
16 showing the time it takes to clear troubles for businesses as
17 opposed to residential. In 1999, they were -- the clearing
18 interval for business was 10.04 hours, while for residence it
19 was 21.3 hours, more than twice as long as for business.

20 Under Mr. Ferrell's leadership, the time for business
21 clearing came down a bit from 11.7 hours in 1998 to the 10.4,
22 but residential clearing times actually got worse from 1998 to
23 1999. It was 19.3 hours for residential in '98, compared to
24 the 21.3 in 1999. We'll be asking Mr. Ferrell to explain these
25 changes to you and let him explain why he could meet service

1 rules for business, but not for residential customers and we'll
2 see if he tells you it has nothing to do with the money.

3 The point is that the company can comply with your
4 service rules and it can do it for all their customers, if they
5 choose to, but it takes money to have the necessary people
6 onboard to provide the service that complies with your minimum
7 service requirements. We certainly have no problem, if they
8 want to provide superior service to business, as long as they
9 meet the minimum standards for residential in the process, and
10 they failed on this with their residential customers.

11 What should you do about the 773 violations of your
12 rules incurred year after year? A substantial fine, as we
13 propose, is necessary to show the company you're serious about
14 the quality of service the company provides its customers. The
15 three-year drought we're in won't last forever and it won't be
16 as easy for Verizon to comply with your service standard as it
17 has been for the last year and a half for them.

18 If you expect the company to comply with your minimum
19 service standards when the rainfall returns to more normal
20 levels, you've got to show them you're serious about your
21 service rules and that they have to provide at least the
22 minimum service your rules require for all their customers.

23 We recommend the fine of \$19.3 million. The company
24 and perhaps even the Staff thinks that's an excessive fine.
25 Well, consider the size of this company, Commissioners. Their

1 expenses for network services alone, and that's the
2 organization responsible for installing and repairing service,
3 aggregated to about \$600 million over the four-year period.
4 The \$19.3 million is about 1/30 of that amount. And again, the
5 19.3 is for the entire four-year period. But cutting the
6 budget so much that they couldn't comply with your rules, the
7 company profited by more than this.

8 You can't make violation of your rules profitable for
9 the company, because if you do then it surely will be that they
10 will violate your rules again, because it's a profitable
11 decision for them. We think that given the circumstances of
12 this case that the \$19.3 million fine is appropriate and
13 reasonable.

14 Thank you.

15 CHAIRMAN JACOBS: Ms. Caswell.

16 MS. CASWELL: Commissioners, this case shouldn't even
17 be in the hearing room. Public counsel alleges that Verizon
18 has committed all sorts of intentional wrongs, including
19 extreme neglect of plant and forsaking service quality for net
20 operating income. We are made out to be a corporate villain
21 that cares nothing for its customers. We categorically deny
22 those allegations and will prove on a point-by-point basis that
23 they are false. But the best way I can show you in a snapshot
24 just how baseless the allegations are, just how unbelievable
25 public counsel's theories are, and just how outrageous a

1 request for an unprecedented \$19 million fine is, is to look at
2 our overall performance, so let's step back and review the
3 magnitude of the offense we're charged with.

4 The Commission requires Verizon to make repairs 95%
5 of the time in 24 hours. Public counsel alleges Verizon missed
6 this standard 569 times over four years. And how many repairs
7 did Verizon make on time during that period? Over 1.4 million.
8 The standard was met more than 90% of the time.

9 Commission requires Verizon to install service within
10 three days 90% of the time. Public counsel alleges Verizon
11 missed that standard 204 times during four years. To gain some
12 perspective on that number, Verizon completed over 1.2 million
13 installations on time during that period. The standard was met
14 nearly 95% of the time.

15 Let's use some common sense. Does anyone really
16 believe that these numbers show any intention on Verizon's part
17 to violate the Commission's rules? Do they reflect the kind of
18 egregious offense public counsel claims? Do they support a
19 theory of intentional corporate malfeasance to sacrifice
20 service quality for profits, ignoring for the moment that
21 budget was exceeded in each of the years under examination?
22 It's ridiculous to even entertain the notion.

23 Verizon provides good service today and it provided
24 good service during the four-year period at issue in this
25 docket. For the past year and a half, Verizon has had an

1 almost perfect compliance record for the repair and
2 installation rules. Over about the same period, Verizon's had
3 the top repair and installation scores among the large ILECs.
4 Even in 1998 and 1999 when Verizon missed some of the
5 standards, it repaired out-of-service conditions in 24 hours
6 almost 93% of the time. It completed service installations
7 within three days almost 96% of the time in 1998, and it had
8 the best scores of any Florida ILEC on its Commission service
9 audits in 1997 and 1998.

10 Verizon has been able to do all this, despite some of
11 the toughest repair and installation measures in the country.
12 Unlike most states, Florida requires each standard to be met
13 for each exchange every month, a much harder objective to meet
14 than a statewide standard. Most states would consider
15 Verizon's service record here to be cause for praise, not for a
16 Show Cause proceeding.

17 As the Commission knows and as public counsel knows,
18 the Commission can assess penalties for rule violations only if
19 it finds they were willful. The Commission has to apply the
20 legal standard of willfulness, which is the same as the common
21 meaning, deliberate, voluntary or intentional. The Commission
22 has to look at the circumstances of each and every miss to
23 determine whether it was willful. At the end of the case, it
24 has to make a specific determination of exactly how many
25 violations Verizon intended to commit. It can't guess or

1 speculate that some may have been willful. Each willful
2 violation must be proven by competent and substantial evidence.

3 Public counsel has failed to produce any evidence,
4 let alone competent and substantial evidence, showing that any
5 of Verizon's misses were willful. Not even public counsel
6 would claim that Verizon ever had a plan to violate the
7 standards, but failing to find any evidence of intent, public
8 counsel fabricates a convoluted theory.

9 According to this theory, Verizon deliberately let
10 its network fall into an extreme state of disrepair without any
11 regard for service quality in a single-minded pursuit of
12 profits. Public counsel claims that corporate headquarters
13 forced the Florida region to adhere to target budgets without
14 any regard for service or compliance with PSC standards.

15 We will show that there's absolutely no truth to
16 public counsel's allegations. It has utterly failed to produce
17 any evidence of a massive underfunding and corporate disregard
18 of PSC standards that it claims. To the contrary, you will see
19 that the company considers compliance with PSC obligations to
20 be a baseline requirement of the Florida president's job.
21 Plainly speaking, a region president's failure to comply with
22 the PSC service measures can cause him to lose his job.

23 The fact that the president must also remain aware of
24 cost considerations in running the business has never
25 diminished the importance of meeting the service standards.

FLORIDA PUBLIC SERVICE COMMISSION

1 Mr. Ferrell's compliance record has proven that effective and
2 efficient use of resources is the key to sustaining compliance
3 with PSC measures. More money does not necessarily equal
4 better service, which is the simplistic conclusion that public
5 counsel asks you to draw.

6 Where Verizon missed the standards in the limited
7 instances alleged in this case, there were good reasons and we
8 discuss them in our testimony, but let me focus on just one
9 here and that's the weather. The weather deserves particular
10 consideration. Tampa Bay is a tough place to operate a
11 telephone company for no other reason than it gets more
12 lightning than anywhere in the world except for the Amazon
13 River Basin. And over the period at issue here, Verizon
14 service area had some of the most extreme weather ever,
15 including the appearance of El Nino. We had record rain,
16 lightning, and flooding at several points.

17 Public counsel, though, would not excuse Verizon for
18 meeting the standards even for any of this weather, no matter
19 how dramatic. In public counsel's view, even acts of God are
20 willful violations on Verizon's part. That's how extreme their
21 position is.

22 It's unfortunate that this case was initiated just as
23 Mr. Ferrell's service improvement initiatives were beginning to
24 pay off to close the small compliance gap that was present.
25 There's no reason for us to be here and no justification for

1 any penalties. Verizon never willfully violated any service
2 standards, and the company has already voluntarily paid many
3 thousands of residential customers \$25 for each missed repair
4 or installation commitment through its voluntary service
5 performance guarantee. Verizon urges this Commission to find
6 that Verizon did not willfully violate the repair or
7 installation rules at any time and to decline to assess any
8 penalties.

9 Thank you.

10 CHAIRMAN JACOBS: Thank you. Unless there's anything
11 else, we're prepared to go to testimony. Looks like there will
12 be rebuttal, except for Mr. Poucher, there will be rebuttal and
13 direct at once.

14 MR. BECK: Mr. Chairman, I don't think any testimony
15 is combined. There's the Staff, then ourselves, then the three
16 company witnesses, and then Mr. Poucher for surrebuttal.

17 CHAIRMAN JACOBS: Okay. And I show Mr. McDonald's up
18 first; is that correct?

19 MR. BECK: Yeah.

20 CHAIRMAN JACOBS: Okay.

21 MR. FORDHAM: Yes. Mr. Chairman, as the first
22 witness, Staff will call Don McDonald.

23 CHAIRMAN JACOBS: You may proceed.

24

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DON MCDONALD

FLORIDA PUBLIC SERVICE COMMISSION

1 was called as a witness on behalf of the Florida Public Service
2 Commission and, having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. FORDHAM:

5 Q Good morning, Mr. McDonald. Would you please state
6 your name and business address for the record, please.

7 A My name is Don McDonald. I work at 2540 Shumard Oak
8 Boulevard, Tallahassee.

9 Q And by whom and what capacity are you employed, sir?

10 A I'm employed by the Florida Public Service Commission
11 as Communications Engineer Supervisor.

12 Q And did you cause to be filed in this proceeding
13 Direct Testimony filed on April 7th, 2000, consisting of seven
14 pages?

15 A Yes, I did.

16 Q Do you have any changes or corrections to make in
17 that testimony at this time?

18 A No, I don't.

19 Q If I were to ask you the same questions contained in
20 your testimony today, would your answers be substantially the
21 same?

22 A Yes, it would.

23 Q Commissioner, at this time I'd like to move
24 Mr. McDonald's testimony into the record as if read, including
25 exhibits -- or Attachments, rather, 1 through 10.

FLORIDA PUBLIC SERVICE COMMISSION

1 CHAIRMAN JACOBS: Well, we haven't marked those yet.
2 Why don't we move the testimony first. Without objection, show
3 the prefiled Direct Testimony of Mr. McDonald entered into the
4 record as though read. And you'd like to mark the exhibits as
5 attached. I show DBM-1 through DBM-10.

6 MR. FORDHAM: Correct.

7 CHAIRMAN JACOBS: We'll mark those as composite
8 Exhibit 5, and we'll wait until the end of his testimony before
9 we move those in.

10 (Exhibit 5 marked for identification.)

11 MR. FORDHAM: Okay. Thank you, sir.

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- 1 Q. Please state your name and business address.
- 2 A. Donald B. McDonald, 2540 Shumard Oak Boulevard, Tallahassee,
3 Florida 32399-0850.
- 4 Q. Where are you employed and in what capacity?
- 5 A. I am employed by the Florida Public Service Commission in the
6 Division of Telecommunications as Communications Engineer-
7 Supervisor in the Bureau of Service Evaluation.
- 8 Q. Please describe your communications and regulatory experience.
- 9 A. I joined the Commission in November 1991, after thirty-one
10 years telecommunications experience with GTE-Florida and GTE
11 Data Services. I have a degree in Industrial Engineering from
12 the University of Florida.
- 13 Q. What are your responsibilities in your current position?
- 14 A. Since joining the Florida Public Service Commission, I have
15 been supervising the Engineers who perform service
16 evaluations. These evaluations include initiating test calls,
17 analyzing company data, making inspections and reporting the
18 results of the tests and inspections.
- 19 Q. Have you previously testified before the Commission?
- 20 A. Yes, I filed testimony in previous cases involving BellSouth
21 (Docket Number 920260-TL), Alltel Communications (Docket
22 Number 920193-TL) as well as other LECs.
- 23 Q. What is the purpose of your testimony?
- 24 A. To show that GTE Florida, during the period of January 1996
25 through December 1999, was in violation of Rule 25-4.070(3)(a)

1 which requires 95% restoration of interrupted service (out of
2 service) within 24 hours of the report and Rule 25-4.066(2)
3 which requires installation of primary service within 3
4 working days in each exchange.

5 Q. With respect to whether GTE Florida failed to meet the
6 requirements of these rules, what kind of review did Staff
7 undertake to make a determination?

8 A. Staff usually conducts annual service quality reviews of the
9 Company by sampling Company records in selected exchanges. In
10 regard to whether the rules are being met concerning
11 restoration of interrupted service and installation of primary
12 service, Staff reviews Company records, usually covering a six
13 month period, in the selected exchanges.

14 Q. Did Staff conduct this review in 1996?

15 A. Yes, Staff conducted a service quality evaluation from May 13,
16 1996 through June 28, 1996 in the Clearwater, Hudson, New
17 Port Richey, and Tarpon Spring exchanges. Company records
18 were reviewed for the period from January 1996 through June
19 1996.

20 Q. What did this review indicate?

21 A. The Company records indicated that they met the rule in three
22 of the four exchanges evaluated for restoration of interrupted
23 service. The standard was missed in the Hudson exchanges as
24 they repaired 93.3% within 24 hours rather than the standard
25 of 95%. On installation of service, the Company also met the

1 standard of 90% in three out of four exchanges as they missed
2 the standard in the Clearwater exchange (86.5%). See Exhibit
3 DBM-1.

4 Q. Did Staff also review the Company's 1996 periodic reports?

5 A. Yes, Staff reviewed the periodic reports issued by the Company
6 for the period for 1996.

7 Q. What did these reports indicate?

8 A. That the Company missed the repair standard in all of its
9 exchanges in January and had only two months (September &
10 December) in which GTE missed the standard in less than 50% of
11 its exchanges. The results of installation of new service
12 were better than the repair results as the Company met the
13 standard in all of its exchanges for five of the twelve
14 months. November was the worst month as it missed the
15 objective in 37.5% of the exchanges. See Exhibit DBM-2.

16 Q. Did Staff conduct a service quality review in 1997?

17 A. Yes, Staff conducted an evaluation in the Lakeland, Bartow,
18 and Lake Wales exchanges from June 16 through July 25, 1997
19 covering the period from January through June 1997.

20 Q. What did the 1997 review indicate?

21 A. The Company met the repair standard in the three exchanges
22 reviewed. However, on installation of service, it missed the
23 standard in all three exchanges. The results for the three
24 exchanges are shown in Exhibit DBM-3.

25 Q. What did the Company's periodic reports show for 1997?

- 1 A. The interruption of service indicated that the Company met the
2 standard for four of the first five months in 1997. However,
3 beginning in June, the Company's results showed that they
4 missed the standard in 58.3% of its exchanges and by November
5 the results had further declined as they missed the standard
6 in 100% of its exchanges. The Company reported that on
7 installation of new service they made the standard 7 of the 12
8 months. See Exhibit DBM-4. However, during the service quality
9 evaluation that was conducted, Staff raised a question
10 concerning the Company's accuracy in reporting installation
11 data. Staff found during the evaluation "28 service orders,
12 that while closed out, were not fully completed; these
13 resulted in out-of-service trouble reports by the customers."
- 14 Q. What was the result of this apparent inaccuracy?
- 15 A. The result was that instead of counting these service orders
16 as completed on time they should have been classified as not
17 completed on time. GTE pledged in their response to the
18 evaluation "to ensure complete information on the orders as
19 well as accurate reporting" in the future. See the
20 correspondence regarding this issue in Exhibit DBM-5.
- 21 Q. Did Staff conduct a service quality review in 1998?
- 22 A. Yes, staff reviewed GTE Florida's records for the period of
23 March 1, 1998 through September 1, 1998 in the Bradenton,
24 Englewood, Sarasota and Venice exchanges.
- 25 Q. What did the 1998 review indicate?

1 A. A sample of the Company records in the previously mentioned
2 exchanges indicated that the Company met the rule in three of
3 the four exchanges evaluated for restoration of interrupted
4 service. The Company missed the repair standard in the
5 Sarasota exchange (91.2% which was below the 95% standard).
6 On installation of service, the standard was met in all four
7 exchanges. See Exhibit DBM-6.

8 Q. What did the periodic reports indicate for 1998?

9 A. Exhibit DBM-7, which shows the Company's results for 1998,
10 reveals that the Company missed the repair standard in 100% of
11 its exchanges in January, 91.7% in February and 83.3% in
12 March. The results for April and May improved greatly and
13 ranged from 4.2% to 8.3%. However, beginning in June the
14 results began to decline and ranged from 37.5% of the
15 exchanges failing in June to 79.2% in October. On
16 installation of new service, the Company's results were
17 somewhat better as they met the standard in all exchanges for
18 three of the twelve months with September being the worst
19 month when the standard was missed in 25% of the exchanges.

20 Q. Did you conduct a service quality evaluation in 1999?

21 A. Yes, from October 25 through December 24, 1999, Staff
22 conducted a follow-up evaluation of out of service troubles
23 (See exhibit DBM-8). The records reviewed covered the period
24 from April 1, 1999 through September 30, 1999 in the same
25 exchanges that were evaluated in 1998, Bradenton, Englewood,

1 | Sarasota and Venice. The evaluation showed that the Company
2 | missed the repair standard in all four exchanges.

3 | Q. What did the periodic reports show for 1999?

4 | A. Exhibit DBM-9 shows that repairing out of service in 1999
5 | varied from not missing the standard in any exchange in
6 | February to missing it in 79.2% of the exchanges in August.
7 | The worst months were August through October when the standard
8 | was missed in all exchanges. However, for the last two months
9 | in 1999 the objective was met in all exchanges. For
10 | installation of new service, the Company missed the standard
11 | in all exchanges for five of the twelve months and only made
12 | the standard in all exchanges in December.

13 | Q. Did GTE Florida meet the quality of service standards for
14 | installation of new service and repair of service
15 | interruptions for the period from January 1996 through
16 | December 1999?

17 | A. No. The Company averaged missing the standard for repair in
18 | 62.2% of its exchanges in 1996, 43.0% in 1997, 56.9% in 1998
19 | and 35.4% in 1999. There was only a slight improvement in
20 | 1999 over the previous three years. In installation of new
21 | service, the Company average missing the standard in only 9.0%
22 | of its exchanges in 1996, 4.5% in 1997, and 6.3% in 1998.
23 | But for 1999, GTE missed the standard in 51.0% of its
24 | exchanges. This indicates a degradation of service in the
25 | area of installation.

1 Q. During the period of January 1996 through December 1999, how
2 many violations of the rule on restoration of interrupted
3 service within 24 hours of the report occurred?
4 A. There were 569 violations of the rule on the repair interval
5 (see Exhibit DBM-10).
6 Q. During the period of January 1996 through December 1999, how
7 many violations of the rule on installation of primary service
8 within three working days occurred?
9 A. There were 204 violations of the rule on the installation
10 interval (see Exhibit DBM-10).
11 Q. Does this complete your testimony?
12 A. Yes.
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1 BY MR. FORDHAM:

2 Q Mr. McDonald, do you have a summary of your
3 testimony?

4 A Yes.

5 Q Would you give that at this time, please.

6 A I certainly will.

7 The company, such as Verizon, submits periodic
8 reports usually on a quarterly basis and we review them as they
9 send them in and, basically, they explain why they made misses.
10 And what we'd look for on an ongoing basis on periodic reports
11 is a trend over time.

12 And I reviewed the apparent report from the time
13 frame of January 1996 through December 1999 in the area,
14 principally, of repair involving Rule 25-4.070, which says all
15 repair must be made within 24 hours 95% of the time in each
16 exchange. And on installation, which is Rule 25-066 -- .066 --
17 4066, I'm sorry, it says installation must be done 90% in each
18 exchange within three days. So, in reviewing the trends over a
19 period of time, it's already been stated how many violations
20 each exchange -- there's 24 exchanges in Verizon, at least at
21 the time we did the evaluation on the periodic reports.

22 And a violation would be if those 24 exchanges missed
23 repair during the month that would be considered 24 violations,
24 so totalling those violations up for 1996 was 179 on repair,
25 '97 was 124, '98 was 164, and '99 was 102, as Mr. Beck started

1 outlining for a total of 569. And on installation again, that
2 is by exchange, there are 24 of them; '96 there were 26
3 violations, '97, 13; '98, 18, and then it jumped up to in '99
4 147 for a total of 204:

5 Some of the reasons outlined by the company for
6 missing was bad weather. We have a rule, the repair Rule
7 25-4070, which says, if you have emergency conditions, such as
8 bad weather or whatever and over 10% of an exchange is out of
9 service, you can -- you do not have to count that day. To my
10 knowledge, Verizon, during that time frame, had never come to
11 the Public Service Commission and said we want to exclude data
12 during that time for any problems.

13 And that concludes my opening comment.

14 MR. FORDHAM: Thank you. Mr. Chairman, at this time
15 Staff tenders the witness for cross.

16 CHAIRMAN JACOBS: Mr. Beck, any cross?

17 MR. BECK: Yes, thank you.

18 CROSS EXAMINATION

19 BY MR. BECK:

20 Q Good morning, Mr. McDonald.

21 A Good morning.

22 Q Mr. McDonald, the 24 exchanges that Verizon has, do
23 they vary somewhat in size?

24 A Oh, yes, anywhere from Myakka, which is probably one
25 of their smallest ones up to the Tampa exchange, which is

1 probably their biggest, Tampa-St. Pete.

2 Q Now, to make one rule violation, they'd have to
3 violate the standard for the entire month in an exchange; is
4 that correct?

5 A That's correct.

6 Q Could you give us an example, both for a large
7 exchange and a small exchange, about how many individual
8 customers would have had service outside the rule, if there was
9 a violation for the month, if you can?

10 A Well, take St. Petersburg, as an example. As I
11 recall, the data for another reason, they'd run somewhere
12 between 5 and 6,000 repair tickets in a month, so in order to
13 miss that exchange they would have to basically miss 5% -- over
14 5% of those. So, if they got 90% then, in essence, they'd miss
15 10% of those trouble tickets, which would be 500 or 600,
16 depending on the number of trouble tickets during the month.

17 Now, Myakka, I don't know how many trouble tickets
18 they may have in a month. It might be, you know, 100, so there
19 they would only have -- they would miss, you know, certainly a
20 lot less numbers to get below 95%.

21 Q And what you've described is the criteria to have one
22 rule violation of the --

23 A If Myakka had 100 trouble tickets and they missed 15
24 of them, obviously, that would be a violation.

25 Q Okay. It's Staff's position that Verizon's

1 violations were willful on Verizon's part; is that correct?

2 A I believe, that's what the write-up said, yes.

3 Q Well, what's your position?

4 A Well, it's not for me to determine whether it was
5 willful or not. I believe that's the Commission's prerogative
6 to make that determination, whether it's willful or not.

7 Q So, are you saying -- you're not saying whether it
8 was or was not, you just have no position on whether it was
9 willful?

10 A That's correct.

11 Q What is your position regarding the fine that should
12 be imposed in this case?

13 A I believe that's outside of my scope of my testimony.

14 Q Do you have any position?

15 A I have no position on that.

16 Q So, you have no position on whether it's willful or
17 whether there should be a fine?

18 A That's correct.

19 MR. BECK: I have no other questions. Thank you.

20 CHAIRMAN JACOBS: Ms. Caswell.

21 CROSS EXAMINATION

22 BY MS. CASWELL:

23 Q Good morning, Mr. McDonald.

24 A Good morning.

25 Q I think, you mentioned that when Verizon submits its

1 quarterly reports it includes explanations of the misses of
2 service standards for that month; is that correct?

3 A That's correct.

4 Q And did you review any of Verizon's explanations for
5 missing the standards at certain points?

6 A Yes, we do.

7 Q And in the four years at issue, do you know if the
8 Commission has ever questioned Verizon's explanations for its
9 misses?

10 A Well, again, when we look at periodic reports, we
11 don't look so much at a single month, but we look for trends,
12 and if we see an ongoing trend, then we have a problem. I
13 believe, in '97 we raised that question to Verizon that we
14 didn't like the trend we saw and we got explanations for that,
15 but you still -- if you violate a rule -- I mean, even though
16 there's bad weather or whatever the reason is, you still have
17 to meet the rule, unless you can exclude that data from the
18 total, and nowhere, that I recall, did Verizon ever ask that
19 for any of the data be excluded.

20 Q So that perhaps in one instance the Commission or the
21 Commission Staff went to Verizon, asked them for greater
22 explanation of the misses, and that was it?

23 A I'm sorry, would you restate that?

24 Q Was that in one instance where the Staff went back
25 and asked Verizon to explain its misses?

1 A Yes, in '97 we did.

2 Q In 1997?

3 A Right.

4 Q And do you know if the Staff or the Commission ever
5 indicated that any of the service standard misses was
6 intentional or deliberate rather than the result of the factors
7 Verizon listed in its explanations?

8 A Well, we never raised the issue whether it was
9 deliberate or not when we asked to review your, you know, in
10 '97 or even since then.

11 Q Okay. And you talked about trends when you look at
12 the service results. Now, looking at the charts in your
13 testimony on the compliance levels from '96 through '99, do we
14 see peaks and valleys there; in other words, compliance was
15 better at some points than other points or do you see a
16 steadily increasing trend toward less and less compliance?

17 A In '99?

18 Q No, I'm talking about over the period from 1996
19 through 1999 when you look at graphs --

20 A Well, in looking at the data, if you start with '96,
21 as an example, repair, the best you did was you made it in half
22 of your exchanges on several months and the work you did, you
23 missed it in every exchange in '96.

24 Q But the results varied from month to month. You
25 didn't see any --

1 A They varied, right. In some months you made the
2 objective in every exchange, but like '97, the first three
3 months of the year you were fine, you met it in every exchange,
4 but then by the end of the year you were -- your results
5 steadily got worse in '97, went from 16% of the exchanges
6 missed to 100% by the end of the -- by November, actually. And
7 that continued on in '98, until April of '98. And then for two
8 months it got better, 4% of your exchanges missed at '98 and 8%
9 in April and 8% in May and then it got worse again. From June
10 through December the best month you had was 37% of misses and
11 the worst you had was about 79%, so...

12 Q So, there were variations from month to month?

13 A They were varying, yes, but the trend didn't look too
14 good. And on -- the main thing on installation, it wasn't too
15 bad during '96, 7 and 8, except for a few isolated months;
16 towards the end of '96, it trended up, but then it went back
17 down again, like, you got it back under control. But in '99,
18 then that's when you had the biggest problem. First part --
19 first few months in '99 you had every exchange where you missed
20 and then it got better for two months, and then it got bad
21 again until the end of the year, and November it got better
22 again.

23 Q So, they were up and down trends.

24 A They were up and down some, yeah.

25 Q Okay. At Page 6, Lines 24 through 25 of your

1 testimony, you indicate there was a degradation of service in
2 the area of installation --

3 A Yes.

4 Q -- in 1999?

5 A That's right.

6 Q -- because GTE missed the standard a high percentage
7 of time that year. Do you recall that in the reports for
8 February and March of 1999 the company explained that due to a
9 report system problem, it's reported installation results for
10 those months did not accurately reflect the actual results for
11 the period?

12 A Yes. And what I question on that is if the report
13 wasn't accurate then why didn't Verizon file an accurate report
14 to the Commission, because the rule is on periodic reports they
15 must be accurate.

16 Q Do you understand that Verizon may not have had the
17 data to file an accurate report because of the systems
18 problems?

19 A Well, then, we have to take the data you send in as
20 being accurate.

21 Q Okay. So, your conclusion about the degradation of
22 service doesn't consider that reported results may not have
23 been accurate?

24 A Not at all.

25 Q In any event, the downtrend you may have perceived in

1 the 1999 installation numbers has not continued in that
2 direction for 2000, has it?

3 A No, and 2000 has been very good.

4 Q Okay. And for 2000 and 2001, so far the company has
5 met repair and installation standards for the most part?

6 A I believe, if my memory serves me right, from January
7 of 2000 through March of 2001 you've missed installation in
8 four exchanges and repair in five, if I'm not mistaken.

9 Q So, you would say that's a --

10 A I would say that's very good.

11 Q And in preparing your testimony you also relate --

12 COMMISSIONER DEASON: Let me ask the question at this
13 point. First, I'll direct it to our legal Staff, then I'll let
14 the parties address it, if they wish. We're here for service
15 violations or apparent service violations which occurred over a
16 four-year period, '96, '97, '98, and '99. Is it relevant what
17 happened in 2000 and 2001? Is that something we should
18 consider or something that is outside the scope?

19 MR. FORDHAM: Commissioner, I would think since one
20 of the purposes of the hearing is to determine the monetary
21 penalties involved that it might be helpful to the Commission
22 only for that purpose in determining future efforts, but I
23 would -- Staff would not object at this point to the question.
24 I think, it could be admissible based on that factor.

25 COMMISSIONER DEASON: Ms. Caswell?

FLORIDA PUBLIC SERVICE COMMISSION

1 MS. CASWELL: Yeah, and I agree with Mr. Fordham on
2 that point, that the Commission, in assessing whether penalties
3 are due, typically looks at what it will take to achieve
4 compliance in the future; in this case, the 2000 results, 2001
5 results are relevant in that regard.

6 Further though, there's another reason why they're
7 relevant. Public counsel has made them relevant, because its
8 theory is that the company failed to devote the funds
9 necessary, the personnel necessary, the resources necessary to
10 meet the service standards through 1996 through 1999, that its
11 resources were necessarily inadequate. And the only way we can
12 prove that they were not is to show you results from 2000 and
13 show you that we had no more resources, that it was better
14 management.

15 So, I would emphasize that they're directly relevant,
16 because of public counsel's theory in this case. I would also
17 point out that, I think, public counsel itself has attached
18 some 2000 information to its testimony and expenses and things
19 of that nature. They've talked about costs per line and some
20 other things relevant to 2000. The 2000 results were discussed
21 in Mr. Ferrell's testimony. Mr. Poucher rebutted some of that
22 testimony. There was no move to strike any of it, so I would
23 urge the Commission to hear all of the evidence, including the
24 2000 results.

25 COMMISSIONER DEASON: Mr. Beck.

FLORIDA PUBLIC SERVICE COMMISSION

1 MR. BECK: Commissioner, we haven't objected. I
2 don't think it's particularly relevant that they could do
3 better during 2000, which is the second year of a drought,
4 after the Commission has opened a show cause in their scrutiny,
5 but I'm not going to object to it. If they want to put it in,
6 that's fine. It's at the Commission's pleasure.

7 COMMISSIONER DEASON: Well, I guess, my question goes
8 beyond you all permitted to present evidence, and you can
9 object or not, but just because you present it doesn't mean
10 that we have to consider it. And my question is should that be
11 considered as part of whether there were violations in the
12 four-year period and when it goes to determining the amount of
13 a fine, is that something within our discretion? We're not
14 limited one way or the other legally. We can consider it, if
15 we wish or we can ignore it, if we wish; is that --

16 MR. BECK: That would be my understanding,
17 Commissioner.

18 COMMISSIONER DEASON: Ms. Caswell?

19 MS. CASWELL: I would agree.

20 COMMISSIONER DEASON: Staff agrees with that?

21 MR. FORDHAM: Staff agrees as well.

22 COMMISSIONER DEASON: Okay, thank you.

23 BY MS. CASWELL:

24 Q I think, we were -- were we talking about the audits?

25 A Well, you asked about how you were doing lately.

1 Q Yeah. Well, in preparing your testimony, you've
2 reviewed the service quality audits over the four years at
3 issue; is that right?

4 A Yeah.

5 Q And those audits are performed by Commission Staff?

6 A Right.

7 Q And in terms of overall audit scores from 1996
8 through 1999, Verizon has consistently exceeded the passing
9 scores; isn't that right?

10 A That's correct. One thing you have to realize on
11 audits, it is a snapshot of a few exchanges within the company
12 and a few central offices in the company, not all 24 of them.
13 So, we might look at four or five exchanges and you might do
14 okay in those four or five and you might have done all right
15 during the periodic report on those companies, because we do
16 compare our review with the periodic reports to see if they're
17 in sync.

18 Q But you do consider them relevant in assessing
19 service quality, correct, or the Staff wouldn't do them at all?

20 A Right.

21 MR. FORDHAM: Commissioner, Staff at this time, if
22 we're pursuing this, has to object, because the service
23 evaluations are not a part of the docket and we have not used
24 those in any way in making the initial charges against the
25 company.

1 MS. CASWELL: Can I respond? I'm a little puzzled by
2 that, because I think Mr. McDonald does discuss the service
3 audits in his testimony, and that's why I'm asking the
4 questions about the audits.

5 THE WITNESS: It was in my testimony, but the
6 violations are based strictly on the periodic reports.

7 MS. CASWELL: Okay. I understand. I have no more
8 questions on the audits, in any case.

9 CHAIRMAN JACOBS: You're withdrawing that so I don't
10 have to deal with the objection?

11 MS. CASWELL: Yeah. I'm not sure I -- I think, we're
12 fine.

13 CHAIRMAN JACOBS: Okay.

14 MS. CASWELL: I think, we're fine.

15 BY MS. CASWELL:

16 Q Mr. McDonald, do most states measure service results
17 at the exchange level?

18 A Yeah.

19 Q They do?

20 A I'm sorry, would you repeat that?

21 Q Do most states measure service results at the
22 exchange level or perhaps the statewide level?

23 A Well, I think --

24 MR. BECK: Objection, relevance.

25 CHAIRMAN JACOBS: Excuse me, just a moment, Mr.

1 McDonald.

2 THE WITNESS: I'm sorry.

3 MR. BECK: I object to relevance.

4 THE WITNESS: That's outside the scope of my
5 testimony.

6 CHAIRMAN JACOBS: Hold on just a second, we've got an
7 objection. Ms. Caswell.

8 MS. CASWELL: That's fine. I withdraw the question.
9 I have nothing further, Mr. McDonald.

10 CHAIRMAN JACOBS: Redirect?

11 MR. FORDHAM: Staff has no redirect, Commissioners.

12 CHAIRMAN JACOBS: Commissioners, any questions?

13 Mr. McDonald, do you attribute any particular
14 relevance to the nature of the violations in the level to which
15 they rose and decline throughout the course of the year? Is it
16 seasonal, is it --

17 THE WITNESS: Well, somewhat. Although, it looks
18 like it varies somewhat, it's not due -- you can't say, well,
19 when they have all the tourists in their area, then they have
20 more compliance. They probably do, but they should staff for
21 that. And they have bad weather normally in the summer which
22 they know they're going to have, and they should staff for
23 that. I mean, it's not unusual conditions, other than once in
24 a while when they may have an El Nino or something problem, but
25 as long as the plan is maintained in proper condition it

1 shouldn't cause any extraordinary outages, I wouldn't think, in
2 my opinion.

3 CHAIRMAN JACOBS: Okay. Very well.

4 COMMISSIONER DEASON: I'm sorry, I do have a
5 question. The rules and the standards which are within the
6 rule, primarily for repairs 95% and 90% installations.

7 THE WITNESS: Right.

8 COMMISSIONER DEASON: What is your understanding as
9 to why there is a standard of lesser than 100%? I guess, my
10 question is, is that to anticipate changes in weather or
11 perhaps changes in demand, seasonal demand, is that the reason
12 that it's not 100% the requirement, there's leeway in there for
13 the company to be able to manage within normal weather, normal
14 demands, that sort of thing?

15 THE WITNESS: That's right. I would think it's there
16 principally to take care of slightly unusual conditions that's
17 not an emergency type situation, yes.

18 COMMISSIONER DEASON: Okay.

19 THE WITNESS: Otherwise, would be 100%, it could be
20 100%.

21 COMMISSIONER DEASON: You mentioned a provision
22 within the rule which allows the company to request data to be
23 excluded for severe weather; is that correct?

24 THE WITNESS: If 10% of an exchange is out of service
25 due to whatever reason, it could be bad weather or other

1 emergency conditions. Acts of God is defined as 10% of an
2 exchange up, yes.

3 COMMISSIONER DEASON: But you interpret that it's
4 incumbent upon the company to request that data to be excluded?

5 THE WITNESS: Yes.

6 COMMISSIONER DEASON: And there were no requests
7 made?

8 THE WITNESS: All they'd have to do is -- well, they
9 could exclude it and reference that rule and we certainly
10 wouldn't object to that at all. If they said, you know, 15% of
11 an exchange was out of service due to El Nino and we had, you
12 know, flooding and all that, we would -- that would be okay for
13 them to exclude it. And as long as they wrote it up in their
14 periodic reports that's why they were excluding it, otherwise,
15 we would challenge it if they didn't.

16 If it wasn't 10% of an exchange -- normally, they
17 would let us know at that time. They wouldn't wait to do a
18 periodic report. So, they would come to the Commission and say
19 we've had an emergency situation and the St. Petersburg
20 exchange, 10% of it is out of service due to the following
21 reason, we would have already known that and then they could
22 exclude it out of their periodic report, whenever they do that,
23 which is usually within 30 days after the end of that quarter
24 for that particular period of time.

25 CHAIRMAN JACOBS: Very well. That takes care of it.

1 Thank you, Mr. McDonald, you're excused.

2 (Witness excused.)

3 CHAIRMAN JACOBS: Next witness.

4 MR. BECK: The citizens call Mr. Poucher.

5 CHAIRMAN JACOBS: Well, before I -- because we didn't
6 -- hold on, Mr. McDonald. I guess, I should just make sure,
7 because we did ask some questions that no --

8 MR. FORDHAM: No more questions, Commissioner, but I
9 would like, at this point, to move the testimony with
10 Attachments as a composite Exhibit Number 5.

11 CHAIRMAN JACOBS: We've moved the testimony in
12 already. Without objection, we'll admit Exhibit 5 into the
13 record.

14 (Exhibit 5 admitted into the record.)

15 CHAIRMAN JACOBS: You may proceed, Mr. Beck.

16 R. EARL POUCHER

17 was called as a witness on behalf of the Citizens of the State
18 of Florida and, having been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. BECK:

21 Q Would you please state your name?

22 A My name is Earl Poucher. I'm a Legislative Analyst
23 with the Office of Public Counsel at 111 West Madison Street,
24 Tallahassee, Florida.

25 Q Did you cause your Direct testimony to be filed in

FLORIDA PUBLIC SERVICE COMMISSION

1 this case on April 27th, 2000?

2 A Yes, I did.

3 Q Do you have any changes or corrections to make to
4 your testimony?

5 A Yes, I do. On Page 10 of my testimony, Line 1,
6 replace the initials PUC with PSC.

7 Q Is that the only change you have?

8 A That's the only change I have.

9 Q And did you also have exhibits with your testimony
10 marked REP-1 through REP-21?

11 A Yes, I did.

12 MR. BECK: Mr. Chairman, I'd ask that Mr. Earl's
13 Exhibits REP-1 Through REP-21 be marked as Exhibit 6 for
14 identification.

15 CHAIRMAN JACOBS: Show them marked as Exhibit 6.

16 (Exhibit 6 marked for identification.)

17 BY MR. BECK:

18 Q And with your changes you mentioned earlier,
19 Mr. Poucher, if you were to give this testimony today would
20 your answers be the same?

21 A Yes, they would.

22 MR. BECK: I'd ask that Mr. Poucher's Direct
23 Testimony be inserted into the record as though read.

24 CHAIRMAN JACOBS: Without objection, show
25 Mr. Poucher's Direct Testimony entered into the record as

1 though read.

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DIRECT TESTIMONY

R. EARL POUCHER

FOR

THE OFFICE OF PUBLIC COUNSEL

BEFORE THE

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 991376-TL

1 Q. Please state your name, business address and title.

2 A. My name is R. Earl Poucher. My business address is 111 West Madison St., Room
3 812, Tallahassee, Florida 32399-1400. My title is Legislative Analyst.

4 Q. Please state your business experience.

5 A. I graduated from the University of Florida in 1956 and I was employed by Southern
6 Bell in July 1956 as a supervisor-trainee. I retired in 1987 with 29 years of service.
7 During my career with Southern Bell, I held positions as Forecaster, Gainesville;
8 Business Office Manager, Orlando; District Commercial Manager, Atlanta; General
9 Commercial-Marketing Supervisor, Georgia; Supervisor-Rates and Tariffs, Florida;
10 District Manager-Rates and Tariffs, Georgia; General Rate Administrator,
11 Headquarters; Division Staff Manager--Business Services, Georgia; Profitability
12 Manager-Southeast Region, Business Services; Distribution Manager-Installation,
13 Construction & Maintenance, West Florida and LATA Planning Manager-Florida.
14 In addition, I was assigned to AT&T in 1968 where I worked for three years as
15 Marketing Manager in the Market and Service Plans organization. I joined the Office
16 of Public Counsel in October 1991 where I have performed analytical work and
17 presented testimony primarily in telephone matters. I am currently serving as a staff

1 member for the Federal-State Board on Universal Service.

2 **Q. Have you ever appeared before this Commission?**

3 A. Yes I have. I testified on behalf of Public Counsel in United Telephone's Docket No.
4 910980-TL on rate case matters and Docket No. 910725-TL on depreciation matters,
5 GTE Docket 920188-TL on Inside Wire, and in Southern Bell's depreciation Docket
6 No. 920385-TL. I filed testimony in Southern Bell's Dockets 920260-TL, 900960-TL
7 and 910163-TL, in the GTE Docket No. 950699-TL, in Docket No. 951123-TP
8 dealing with Disconnect Authority, in Docket No. 9708820-TI dealing with
9 slamming and in Docket No. 970109-TL dealing with "I Don't Care, It Doesn't
10 Matter". In addition, as an employee of Southern Bell I testified in rate case and
11 anti-trust dockets before the Public Service Commissions in Georgia and North
12 Carolina.

13 **Q. What is the purpose of your testimony?**

14 A. The purpose of my testimony is to present to the Commission the recommendations
15 of the Office of Public Counsel regarding the appropriate measures the Commission
16 should take to penalize GTE for its willful failure to comply with the Commission's
17 rules that apply to the installation and repair of telephone service in the GTE
18 operating territory in Florida since January 1, 1996.

19 **Q. Did any of your previous job assignments with BellSouth include responsibility
20 for installation and repair services?**

21 A. Yes. I was responsible for BellSouth's Construction, Installation, Repair and Repair
22 Center forces in Pensacola from 1982 until 1985. During the last year of that
23 assignment I also assumed responsibility for the Panama City Construction,
24 Installation, Repair and Repair Center organization. This latter move essentially gave
25 me the responsibility of managing all of BellSouth's outside construction, installation

1 and repair personnel from Havana to the Alabama line.

2 **Q. What is the basis for the recommendations you are making?**

3 A. I have evaluated the results of the company's measurements since January 1, 1996,
4 including the quarterly reports filed by GTE with the FPSC and various company
5 internal reports that were furnished at the request of Public Counsel. In addition, I
6 have reviewed company correspondence regarding service issues and our office has
7 taken the deposition of Russ Diamond, who is responsible for the reporting of service
8 results and budgetary matters for GTE's Florida operations.

9 **Q. What is the significance of the January 1, 1996 date as it relates to this docket?**

10 A. January 1, 1996 was the starting point for price cap regulation implemented in
11 Florida pursuant to the 1995 revision of Florida Statutes. Effective January 1, 1996,
12 GTE was relieved of the regulatory processes we know as rate of return regulation
13 and was allowed to price its services without regard to service performance or
14 earnings of the company.

15 **Q. What is the significance of the PSC's service rules in a price cap regulatory
16 environment as opposed to a rate of return environment?**

17 A. Under the prior rate of return regulatory environment, GTE was allowed to price its
18 services to produce total revenues sufficient to provide a reasonable return on the
19 investment made by the company. This regulatory process required the FPSC to
20 continually monitor the revenues, expenses and earnings of the company to ensure
21 that the rates charged to customers were fair and reasonable. The Commission was
22 also obligated to ensure that customers received satisfactory levels of service as part
23 of the PSC regulatory oversight. As part of rate case proceedings, the Commission
24 would schedule service hearings in the operating territory of the company for the
25 purpose of determining if the quality of service was satisfactory. Thus, the threat of

1 regulatory action in the determination of rates of return on investment was a powerful
2 motivator for the companies to meet the standards of service that have been adopted
3 by the PSC in past years.

4
5 In a price cap mode, the power of the commission to reward good service with higher
6 earnings or to penalize bad service with lower earnings is eliminated. The only
7 method the Commission can use to ensure that the quality of service meets the
8 minimum standards established by the PSC is to fine the company for willful
9 violation of its rules.

10 **Q. Please identify the specific rules the company has violated in respect to**
11 **installation and repair service.**

12 **A.** The company has violated Florida PSC rule 25-4.066 as it relates to installation
13 service and PSC rule 25-4.070(3)(a) as it relates to repair of out of service troubles
14 reported by customers. It is important for the Commission to recognize that even
15 though the Florida Statutes adopted price cap regulation for incumbent LECs starting
16 January 1, 1999, the legislature retained FPSC regulatory oversight over service
17 quality both for the new competitive local exchange companies and the LECs such
18 as GTE.

19
20 The statutes provided the commission exclusive jurisdiction in order to protect the
21 public health, safety, and welfare by ensuring that monopoly services provided by
22 telecommunications companies continued to be subject to effective price, rate, and
23 service regulation. (Section 364.01, F.S., 1998) The legislature further directed that
24 the term "service" be construed in its broadest and most inclusive sense. (Section
25 364.02(11), F.S., 1999)

1 **Q Please summarize the PSC's installation service rules.**

2 A. The Florida PSC rule, 25-4.066, requires telephone companies to install primary
3 residential and business service within three days, where facilities are readily
4 available. The performance benchmark stated in the rules requires the company to
5 install at least 90% of its orders for primary service within three days on a monthly
6 basis for each exchange in which the company operates. GTE has 24 exchanges in
7 Florida and, therefore, it must comply with the requirements of the rule in each of its
8 24 exchanges, calculated separately, on a monthly basis.

9 **Q Please summarize the PSC's repair service rules.**

10 A. The PSC rule relating to repair service, 25-4.070(3)(a), requires that the company
11 repair telephone service that is reported by the customer to be out of service (unable
12 to make outgoing or receive incoming calls) to be repaired within 24 hours, as
13 measured on an exchange by exchange basis, per month for each of the 24 GTE
14 exchanges. The rules recognize that temporary overloads may occur, therefore the
15 company is required to complete 95% of its out of service troubles within the 24 hour
16 time frame. The company is also exempted from the rule when it encounters
17 emergency conditions where more than 10% of the exchange lines are affected, when
18 customer action is responsible for the outage, and when the trouble is determined to
19 be beyond the network interface in either inside wiring or equipment. Closely related
20 to the out of service rule is the rule that applies to service affecting troubles. If the
21 telephone service is working, but subject to a service affecting trouble, such as static,
22 the company is required to repair the trouble report within 72 hours. The rule is
23 important because the same work forces that engage in repair of out of service
24 troubles also repair the service affecting troubles.

25 **Q. What is the significance of the PSC's rules regarding installation of primary**

1 **service and repair of out of service trouble reports?**

2 A. These two rules govern the activities of a majority of the GTE work forces that are
3 employed in Florida and many others that are located elsewhere. The installation
4 process requires extensive investment and personnel, working together to ensure that
5 facilities and work forces are readily available to install new telephone service in a
6 timely manner when requested by the customer. The same is true when the customer
7 reports a trouble. Timely installation of service and prompt repair are the two most
8 important expectations of the customer, and it follows that these two major activities
9 trigger the largest amount of company expense. Florida's service rules recognize the
10 importance that Floridian's place on the need for reliable and readily available
11 communications services.

12 **Q. Why is it important that Florida customers receive installation and repair**
13 **service that meets or exceeds the PSC service standards?**

14 A. The most important reason is that the customers are paying for the quality of service
15 that is spelled out clearly in the PSC's installation and repair rules. These same
16 measurements have been in place in the FPSC rules since the 1960's, and in other
17 form before that. Multi-million dollar budgets revolve around the delivery of
18 installation and repair service that is assumed to be designed to meet the minimum
19 standards established by the PSC. Florida telephone rates are based on the
20 assumption and expectation that primary service will be installed in three days and
21 an outage will be repaired in 24 hours. If these measurements were not important,
22 the PSC could have established a lesser standard many, many years ago, reduced the
23 expenses of the companies and reduced the prices customers were paying for basic
24 service.

25

1 The bottom line is that the Florida PSC and Floridians place a high value on quality
2 of telephone service and the rates we pay reflect that expectation. The prices and
3 earnings established by the PSC for Florida's telephone companies are hinged
4 directly on the assumption that the quality of service delivered to Florida customers
5 will meet the minimum standards of the PSC. If it is no longer important that these
6 standards be met, then consumers should get refunds and lower rates reflective of
7 lower standards and lower costs.

8 **Q. Please summarize the rule violations committed by GTE regarding the**
9 **Commission's installation rule since January 1, 1996.**

10 A. GTE violated the PSC's installation rule 26 times in 1996, 13 times in 1997, 18
11 times in 1998 and 147 times in 1999 for a total of 204 violations during the four year
12 period.

13 **Q. Please summarize the rule violations committed by GTE regarding the**
14 **Commission's repair rule since January 1, 1996.**

15 A. GTE has violated the PSC's out of service repair rule 179 times in 1996, 124 times
16 in 1997, 164 times in 1998 and 102 times in 1999 for a total of 569 violations during
17 the four year period.

18 **Q. Did your service review include the results of any of the periodic service audits**
19 **performed by the PSC staff?**

20 A. While I have generally reviewed each of the service audits as they are released, I have
21 not used the results of those audits in reaching my conclusions regarding the overall
22 service quality performance of GTE. The periodic audits are best used as a process
23 to validate the company's procedures and to ensure that company practices are
24 consistent with commission rules in the processing of orders, trouble reports, refunds,
25 etc.

1 Q. Please provide an overview of the conditions of GTE's facilities that are used to
2 provide service to its customers.

3 A. In recent years, GTE has allowed its outside plant facilities to deteriorate to the
4 extent that today they are highly susceptible to weather phenomena. The company's
5 installation and repair results are failing to meet the PSC's expectations because of
6 high trouble loads due to poor quality in construction and repair, improper bonding
7 and grounding of its facilities, temporary plant closures, and a host of other problems
8 that are symptomatic of a network that has been allowed to deteriorate over an
9 extended period of time. Excessive reductions in capital and labor expenses have
10 been directed by GTE's company headquarters in recent years that could have only
11 been made with the short term goal of increasing profits. GTE is now paying for its
12 past failures to properly maintain and modernize its network facilities. While this
13 Docket was originated due to the apparent violations of the PSC's service rules, our
14 discovery actually reveals that GTE is also in violation of PSC Rule 25-4.069 which
15 states, "Each telecommunications company shall adopt and pursue a maintenance
16 program aimed at achieving efficient operation of its system so as to permit the
17 rendering of safe, adequate, and continuous service at all times."

18 Q. Why should the Commission fine the company for violating the installation and
19 repair rules?

20 A. GTE has continually violated the PSC service rules since 1996 and the violations
21 were willful. The key points I would make regarding the issue of willfulness are:

- 22 1. Senior management was fully aware of the service violations.
- 23 2. The company's preventive maintenance efforts were sacrificed in order to
24 improve profits.
- 25 3. Service quality was sacrificed in order to meet the profit goals and

1 competitive strategies dictated by GTE Headquarters.

2 **Q. Please discuss each of the points the Commission should consider in determining**
3 **that GTE acted willfully.**

4 **A. SENIOR MANAGEMENT WAS FULLY AWARE OF THE SERVICE**
5 **VIOLATIONS:**

6 GTE was fully aware of service deterioration that was created when GTE chose
7 budget and profit priorities over its service obligations. The increasing network
8 report rate that started rising in early 1997 (Exhibit REP-1) shows clearly that the
9 company's network facilities were in decline and highly subject to weather
10 phenomena starting early 1997.

11 **Q. What is the significance of the report rate shown on the exhibit?**

12 **A.** The report rate is generally reflective of the quality of the outside plant
13 maintenance effort and the impact of the weather. The failure to replace
14 deteriorating outside plant facilities makes the network more susceptible to weather
15 phenomena, and it is more difficult for a company to meet its service obligations
16 when trouble volumes are rising to insurmountable levels during the bad weather
17 that is a natural and continuing event in Florida.

18 **Q. Was higher management aware that the budgetary process was**
19 **shortcircuiting the company's requirement to meet the PSC objectives?**

20 **A.** GTE's decline in service quality and violations of the PSC rules have always been
21 well understood by GTE top management. It's difficult not to be fully aware of these
22 problems. The question is whether you are willing to do anything about it.

23
24 The Commission need look no further than the company's own statements. On May
25 1, 1998, the Florida President, Peter Daks, wrote to his boss in GTE Headquarters,

1 John Ferrell, regarding the Florida ^{PSC}PUC measurements that the company was failing
2 to meet. Mr. Daks outlines all of the steps the company is taking to meet the trouble
3 loads they were faced with. And then he states:

4 "There has also been a need to balance cost and quality, which again has
5 forced this region to make decisions on prioritizing activities." (Exhibit
6 REP-2) (Bold face, underlining added)

7
8 This clearly shows the problem Peter Daks was facing...compliance with the budget
9 or meeting the PSC service rules. GTE Headquarters budget priorities were
10 hamstringing the Florida operations ability to meet PSC objectives while the
11 company was in the process of accumulating the 182 rule violations it experienced
12 in 1998. It wasn't until after this docket was initiated that the GTE head of Network
13 Operations, John Appel, told the Florida Region in late 1999 that meeting the PSC
14 objectives was non-optional.

15
16 Obviously, GTE Florida Region management has no choice but to follow the dictates
17 of its company headquarters operation. GTE Operations is in control and determines
18 the budget and level of service provided by the GTE Florida Region. The corporate
19 solution appears to be not to comply, but to change the rules.

20
21 When John Appel brought up the problem of the Florida PSC misses to M.L. "Red"
22 Keith in April of 1998, one of the responses was provided by Brad Krall, who said:

23 "The only Real answer to this issue is to change the Regulation in Florida..."
24 (Exhibit REP-3)

25 GTE has actually been advocating less stringent service standards since 1996. Peter

1 Daks, the Regional President in charge of Florida operations stated clearly in a letter
2 to company headquarters on May 13, 1996 that GTE was "*working with BellSouth*
3 *and other major LECs to advocate to the Florida Commission revisions to current*
4 *service rules*". Mr. Daks characterized the goal as "*movement to fewer objectives*
5 *and less rigid standards . . .* "

6 (Exhibit REP-4).

7
8 Rather than to make a firm corporate commitment to meet the PSC rules, GTE chose
9 to advocate less stringent service standards, which would automatically increase the
10 profits they were taking out of Florida and reduce the quality of service for Florida
11 customers.

12 **Q. What is the second point the Commission should consider?**

13 **A. THE COMPANY'S PREVENTIVE MAINTENANCE EFFORTS WERE**
14 **SACRIFICED IN ORDER TO IMPROVE PROFITS:**

15 **Q. Has GTE spent too little on preventive maintenance?**

16 **A.** Here again, the commission need look no further than GTE's own words. On
17 January 7, 1998, Peter Daks wrote to M.L. Keith at company headquarters regarding
18 the service emergency they had declared in Tampa due to rainfall. Daks shows the
19 connection between the report rate and GTE's primary preventive maintenance
20 program--TAC Focus:

21 "I know my continued position on this subject may not be popular, but the
22 TAC Focus program presently in place, by itself, does not have sufficient in-
23 depth analysis to provide the maintenance program that we need to fix areas
24 like St. Petersburg and Clearwater. We have got to identify those outside
25 plant issues and find the dollars to fix outside plant and prevent the amount

1 of trouble that we have experienced this year in the future. This is affecting
 2 our ability to deliver quality and cost objectives." (Exhibit REP-5)

3 The company budgetary constraints have failed to provide the necessary ongoing
 4 effort needed to meet the service expectations of the PSC. The company has simply
 5 failed to spend the necessary dollars to keep ahead of the ongoing deterioration of its
 6 extensive outside plant facilities.

7
 8 The significance of the close correlation of network report rates and capital
 9 expenditures for defective plant replacement can be more fully appreciated by a chart
 10 prepared for GTE top management in October 1998, about the time they were
 11 finalizing the 1999 budget. The chart demonstrates the close correlation between
 12 expenditures for preventive maintenance and the number of customer trouble reports.

13 It shows the following:

14	YEAR	REPORT RATE	DOLLARS SPENT*
15	1990	2.3	\$24.1 M
16	1991	2.0	21.3 M
17	1992	1.7	10.0 M
18	1993	1.8	5.2 M
19	1994	1.8	4.1 M
20	1995	1.6	5.8 M
21	1996	1.8	7.4 M
22	1997	1.9	5.4 M
23	1998	2.2	5.0 M

24 *Annual Capital Expenditures--Defective Outside Plant
 25 (Exhibit REP-6)

1 The trouble rate declined significantly from 1990 through the end of 1992 when GTE
2 was spending an average of \$18.4 million annually to replace defective outside plant.
3 When those expenditures stopped, the report rate first stopped declining, and by 1998
4 it was back up to the 1990 level. This was the point Peter Daks was trying to make
5 to GTE Headquarters. By replacing defective plant before it generated trouble
6 reports, the company would have been better able to handle the trouble loads during
7 heavy rains and meet the PSC objectives. It's just like changing the oil in you car.
8 You either change out the bad oil or wait until the engine blows. GTE willfully
9 chose to curtail its expenditures for replacement of defective outside plant and the
10 company willfully violated the rules of this commission.

11
12 Peter Daks was the president of GTE operations in Florida. His opinions were
13 unpopular because he wanted the company to spend more money on preventive
14 maintenance in 1998. Not only did GTE spend less money on preventive
15 maintenance in Florida in 1998 than it did in 1997, but it also replaced Peter Daks
16 with John Ferrell.

17 **Q. What about the excessive levels of lightning and rainfall that the company has**
18 **blamed for its failures?**

19 **A.** GTE dwells on the correlation between rainfall, lightning strikes, and trouble reports
20 in its reports to the Commission. Since Tampa Bay is well known as the
21 thunderstorm capital of the world, it should come as no great surprise to a company
22 that should have anticipated the norm -- high thunderstorm activity, heavy
23 rains and associated lightning (Exhibit REP-7).

24
25 The weather conditions in Tampa Bay also include the saltwater corrosive problems

1 associated with coastal communities. These factors should have been considered
2 over many years as the company placed ongoing priorities for such activities as:

- 3 A. copper cable replacement with fiber cable,
- 4 B. replacement of air-filled cable and lead cable with jelly-filled cable,
- 5 C. replacement of defective cable,
- 6 D. elimination of "soft wraps", and
- 7 E. high emphasis on bonding and grounding.

8 Unfortunately, these areas continue to be a problem for the company. Which
9 explains why troubles are so high during heavy rains and thunderstorms.

10 **Q. But aren't factors such as lightning beyond the company's control?**

11 **A.** The company can't stop lightning, but it can take measures to mitigate its impact.
12 The company knows its service territory is centered in the lightning capital of the
13 world--Tampa Bay. Lightning can be a huge problem if you have failed to take
14 adequate measures to protect yourself against it. Proper bonding and grounding
15 requires employee training and funding. GTE Florida should be the industry leader
16 in lightning protection, but the company's records do not support that assumption.

17 **Q. Is GTE's lightning protection adequate?**

18 **A.** No. The company admits that it has a bonding problem. Every homeowner knows
19 the importance of bonding and grounding around the home. Its even more important
20 in the telephone network that's full of copper and electronics. I am shocked that a
21 study presented to upper management in June, 1998 showed that 61 percent of the
22 cross boxes they had studied had inadequate grounding. (A cross box is usually that
23 big green rectangular box you drive by on the way out of your subdivision. It's
24 where all of the wires to individual homes or apartments come together to reach the
25 main cable).

1
2 The study identified 327 cross boxes with potential grounding problems and
3 at the time of the report, the company had taken corrective action with only
4 57 of the 327 cross boxes (Exhibit REP-8).

5
6 It is mind-boggling to think that the company could allow its preventive maintenance
7 program to deteriorate to the extent that as recently as 1998 they had significant
8 problems in bonding and grounding of their facilities. It is no wonder that increased
9 lightning strikes are attributed to an increase in trouble reports when their facilities
10 are not grounded. The companies like to call lightning an "act of God", but failure
11 to properly bond and ground their facilities can only be attributed to the acts of some
12 humans at GTE.

13 **Q. Are there other indications that the company's maintenance efforts are lacking?**

14 **A.** Yes. For instance, the June 22, 1998 Operational Review Report (Exhibit REP-9)
15 contains this statement: "*deterioration of OSP (outside plant) never stops*". This
16 chart was explaining how much work the preventive maintenance program has
17 accomplished, but the author points out that they had analyzed less than one percent
18 of the company's cables, and also pointed out that only one-third of the problems
19 identified were being addressed.

20
21 In the same presentation the author reveals that company employees have been
22 encouraged to report unsatisfactory plant conditions to help get the employees more
23 involved in the preventive maintenance program. The employees generated 1,306
24 reports, 238 were completed and 1,016 were still in the pipeline. Budgetary
25 constraints are obviously hurting the maintenance effort at GTE (Exhibit REP-10).

1
2 Although the company planned to spend \$5.3 million on defective plant in 1998, one
3 document showed they only spent \$2.6 million (Exhibit REP-11). GTE projected
4 that if they spent \$7.8 million in 1999 it would eliminate 18,000 dispatches. The final
5 budget in 1999 showed that the new plan was to spend \$4.4 million and reduce the
6 number of dispatches by 32,000. Since data from late 1999 indicates that the
7 company is still having problems implementing an effective defective plant
8 replacement program (TAC Focus), it's doubtful in my mind that either projection
9 actually materialized.

10 Q. What is the third point the Commission should consider?

11 A. SERVICE QUALITY WAS SACRIFICED IN ORDER TO MEET THE
12 PROFIT GOALS AND COMPETITIVE STRATEGIES DICTATED BY GTE
13 HEADQUARTERS:

14 The problem with the company's budget process is that the starting point in
15 developing the budget was an existing workforce that was unable to cope with repair
16 and installation loads in 1997 and 1998. Nowhere in this budget process do we see
17 adjustments or mention of the need to implement a plan to provide service to satisfy
18 the rules of the PSC. The company knew it was violating the PSC rules when it
19 assembled the 1998 and 1999 budgets and failed to do anything about it. That's
20 willful.

21 Q. Why were the company's violations of the installation and repair rules willful?

22 A. I've already given you the first good example about GTE's willfully reducing the
23 budget for defective plant replacement. The choices of profit over GTE's service
24 obligations are made every day in the company. My review of the documents
25 provided by the company provides clear evidence that local management has little

1 control in the decision-making process that establishes the total budget.

2
3 GTE's basic budget assumptions place profits ahead of service obligations. The
4 assumptions budget planners were required to use made it impossible for the field
5 forces to meet service objectives and stay within the budget. For instance, GTE
6 forecasts the expected hours needed to install or repair service. The forecast used
7 to establish the 1997 budget states that GTE expected to spend 2.173 hours for each
8 installation, or 1.685 hours for each repair (Exhibit REP-12). The GTE Florida
9 installation and repair forces were never able to meet the productivity forecast for
10 either installation or repair function for any month during the entire year during
11 1997. With such inaccurate basic inputs to the budget process, it is no wonder that
12 Florida operations were forced to choose between the budget and service, month after
13 month, year after year.

14 **Q. Are earnings more important than service to GTE?**

15 **A.** GTE's budgeting process appears to be clearly managed more toward achievement
16 of earnings goals rather than toward meeting service obligations. A good example
17 of this process is shown on two charts (Exhibit REP13). The first chart is the
18 forecasted actual expense on a monthly basis for 1997. The following chart shows
19 the service performance for 1997. Except for June, GTE provided superior
20 installation and repair service during the first half of 1997. Actual expenses tracked
21 almost perfectly with the monthly forecast, and at mid-year expenses were slightly
22 below the forecast and service was O.K.

23
24 During the second half of 1997, actual expenses also tracked the forecasted expenses
25 very closely, except during December when floods, storms, and a s e r v i c e

1 emergency drove the year end budget over the actual forecast by less than ½ of one
2 percent (\$528K overage).

3

4 GTE Florida basically held tight to its budgetary commitment to headquarters in 1997
5 while service performance was allowed to deteriorate during the last six months of
6 the year. The company failed to meet the PSC standard for repair 106 times during
7 that six-month time period.

8

9 Except for December, 1997, the company held to the budget while it allowed service
10 to deteriorate . It is difficult to imagine that the company was not aware of the
11 choices it was making throughout 1997 to place profit expectations before its service
12 obligations.

13 **Q. What about the 1998 budget?**

14 A. The same problems can be seen in 1998 as 1997. The company was experiencing
15 substantial failures in meeting its service obligations in Florida. GTE Headquarters
16 was pushing for a nationwide budget reduction of \$102 million and the Florida
17 Region was told to implement a \$7-9 million cost reduction program, even though
18 the company was repeatedly failing to provide the service required by the
19 Commission rules. (Exhibit REP-14)

20

21 The exhibit shows that the 1998 budget was set at almost the same base level as the
22 1997 budget, thus erasing the 8% forecast for growth and inflation (\$11,823,000).

23 **Q. What about the 1999 budget?**

24 A. In the face of a report rate that had risen to unacceptable levels in 1998, and failures
25 to meet the PSC installation and repair standards, the company again cut its budget

1 for Florida operations. The target budget for GTE's 1999 operations was \$139.4
2 million, \$5 million less than they actually spent in 1997. (Exhibit REP-15) The 1999
3 budget and force reductions reduced the company's ability to meet the PSC service
4 objectives, according to Richard Pelham, General Manager-Network Reliability
5 (Exhibit REP-16).

6
7 The 1999 budget established the authorized headcount of employees for Florida at
8 3419 employees. (Exhibit REP-17) The year end 1998 budgeted headcount was
9 3569 employees, a reduction of 150 employees. (Exhibit REP-18)

10
11 The GTE Headquarters plans for growth and modernization included a 1999 budget
12 cut of \$144 million nationwide and the loss of 109 Florida employees, plus 50
13 Florida contract employees. In January 1999, GTE announced an incentive
14 retirement program for Network employees to accomplish its targeted reductions.

15
16 In addition to expense cuts, GTE Headquarters slashed the 1999 capital spending
17 program for Florida 46.1% below the 1998 level. (Exhibit REP-19) This was an
18 important decision from a planning standpoint since staffing decisions include both
19 capital spending and expense projections. After Florida spent 47.8% of its total 1999
20 capital spending budget in the first quarter of 1999, GTE Headquarters begrudgingly
21 increased Florida's capital expense for 1999 by \$14.6 million on May 14, bringing
22 the total capital program to \$132.8 million, a mere 40% below the 1998 total.

23
24 To GTE Florida's credit, there is evidence of complaints about GTE Headquarters
25 budget-chopping process. On April 20, 1999, Russ Diamond wrote to Chuck

1 Lindner at GTE Headquarters stating, "I am very concerned about the Florida
2 spending levels through March (47.8% of the total for the entire year)...I am also
3 concerned over the 1998 to 1999 reduction Florida is trying to achieve as compared
4 to the other regions (46.1% vs. 20.9%) Given the growth and inward activity in
5 Florida, this does not seem in line." (Exhibit REP-20) After the May adjustment,
6 Lindner advised GTE Florida there would be no further additions to the budget
7 during the year, barring exceptional growth.

8 **Q. How do the company's competitive strategies impact GTE's ability to meet the**
9 **PSC's installation and repair strategies?**

10 A. The GTE strategy as stated by President Daks was to "*exercise cost controls*
11 *directing our focus on the extremely competitive markets*". I interpret this to mean
12 that in those exchanges where competition was not active and where customers had
13 no competitive choices that they would receive a lesser grade of service.

14 **Q. Does GTE actually have a strategy to select service areas for preferential**
15 **treatment in the installation and repair of basic service?**

16 A. Yes. The company targets each market--wholesale, retail, business, residence,
17 special services--for preferential service based on the competitive status for each
18 market. For example, business customers receive installation and repair service
19 based on three different classifications--Extremely Competitive, Highly Competitive
20 and Moderately Competitive. Business receives better installation and repair service
21 than residence. Residence customers in Extremely Competitive areas receive better
22 service than Moderately Competitive areas. This is a GTE Headquarters plan. It is
23 no small wonder that the company has problems in complying with PSC regulations
24 that are intended to provide quality service for all (Exhibit REP-21).

25

1 The PSC rules state that "each telecommunications company shall make all
2 reasonable efforts to minimize the extent and duration of trouble conditions that
3 disrupt or affect customer telephone service." That statement applies to all customers
4 and to fail to process trouble reports and installation appointments on a first come,
5 first serve basis is not only discriminatory, but it may also be more inefficient.
6 GTE's competitive strategies for installation and repair performance most certainly
7 divert the attention of the service organization from compliance with the PSC
8 standards for installation and repair.

9 **Q. What was the position of GTE higher management after the Show Cause order
10 was released by the PSC?**

11 A. After hearing news of the PSC report, M.L. Keith advised John Ferrell, the new
12 Florida President who replaced Peter Daks, that JCA's (John Appel--head of
13 nationwide network operations for GTE) expectations were that PUC measures are
14 not the measures to be traded off--he considers this to be the baseline performance
15 required. He told Florida GTE to immediately bring PUC performance back in line.
16 Amazingly, the results in Florida improved dramatically in the last two months of
17 1999. The company missed the installation rule in only 3 of its 24 exchanges in
18 November and it had no failures in December. GTE did not experience any rule
19 violations in meeting the repair rule in either November or December. This
20 demonstrates the company can meet the PSC quality of service requirements when
21 it decides to do so and when GTE Headquarters-tells them to do it.

22 **Q. What is the appropriate fine that should be levied against the company for its
23 willful rule violations since January 1, 1996?**

24 A. The commission should fine the company a total of \$19,325,000, or \$25,000 for
25 each violation of PSC rules that was willfully committed by the company between

1 January 1, 1996 and December 31, 1999. GTE violated the PSC rules 773 times
2 during the four year period and the recommended fine is the maximum fine that can
3 be levied by the FPSC. The maximum fine should be levied against the company
4 because the company's budgetary actions were taken with full knowledge that GTE
5 Florida was consistently violating the rules of the PSC. Adequate measures were not
6 taken by the company until the presidential mandate was handed down in late 1999.
7 The company's budget reductions (\$13 million in 1999 alone) were implemented
8 without regard to compliance with the PSC rules. A \$19.3 million fine would not be
9 commensurate with the economic advantage gained by the company as it
10 intentionally milked the Florida cash cow for as much profit as it could squeeze out
11 over the past four years, even as it was failing to meet its service obligations to
12 Florida citizens on a daily basis. While the Florida Statutes limit the fine to \$19.3
13 million, Florida customers have lost far more by not receiving the quality of service
14 for which they were paying.

15 **Q. Please summarize your testimony.**

16 **A.** In essence, GTE has the revenues, the earnings and the obligation to provide quality
17 telephone service in the State of Florida. That what GTE's customers are paying for.
18 Whether GTE provides good service in the future depends on the PSC's diligence in
19 enforcing its service rules and the priorities established within GTE. Ultimately,
20 local management should not be required to choose between profits and service as
21 they have been required to do in the past. The Commission should fine the company
22 by the maximum amount to drive home the point to GTE and all other like
23 companies the financial risk they incur in Florida when they choose profits ahead of
24 their obligations to serve.

25

1 BY MR. BECK:

2 Q Mr. Poucher, do you have a summary of your testimony?

3 A Yes, I do.

4 Q Would you please provide it?

5 A Commissioners, during the time period of this docket,
6 Verizon consistently violated the rules of the Commission with
7 regard to installation of new service and the repair of out of
8 service. Verizon violated your rule 773 times during the
9 four-year period. Verizon committed 249 violations in 1999,
10 which represents their worst performance during the four-year
11 period.

12 The majority of Verizon's expenses revolve around the
13 delivery of installation and repair service. The majority of
14 their employees are located -- that are located in Florida are
15 directly engaged in activities that determine the speed which
16 the company is able to install service and repair it.

17 The budgetary issues surrounding the company's
18 installation and repair service are highly significant to
19 Verizon in terms of the company's overall profitability.
20 Timely installation of new service and the repair of service
21 outages are the most important expectations that customers have
22 of telephone companies.

23 This Commission's service rules recognize the
24 importance that Floridians place on the need for reliable and
25 readily available telecommunications services. Because Verizon

1 is no longer influenced by rate of return regulation, it
2 follows that since January 1st, 1996, this Commission has
3 lost a powerful enforcement mechanism that's been used in
4 the past and that's motivated the companies to comply with
5 your regulations or be penalized in rate of return
6 proceedings.

7 The Commission's only recourse today to ensure
8 compliance is to resort to those rules that allow you to fine
9 the companies for willful violations of your rules. Despite
10 repeated and continued violations, Verizon failed to take the
11 steps necessary over a four-year period to comply. The
12 company's failure to take action can only be considered to be
13 willful.

14 The Commission should consider that Verizon's senior
15 management was fully aware of these violations. The Commission
16 should take notice that the company's preventive maintenance
17 efforts were sacrificed during this period of time, service
18 results were allowed to deteriorate, thus, reducing expense and
19 improving profits.

20 Verizon's continued pursuit of budget-cutting
21 strategies left the company with a head count of permanent
22 employees that were significantly below the budget and
23 incapable of providing service performance that was in
24 compliance with your rules.

25 Following the initiation of this docket in November

1 1999, Verizon reported to you that it was in compliance with
2 your rules. This demonstrates that the company has the ability
3 to comply with your rules when and if it determines that
4 service will be the highest priority.

5 Because of these repeated willful violations, we
6 recommend a fine of \$19,325,000, which is the maximum amount as
7 a deterrent against future violations of this type. Verizon
8 has the revenues, they have the earnings, they have the
9 obligation to provide quality service in the state of Florida.
10 That's what Verizon's customers are paying for, and the
11 diligence of this Commission in enforcing your rules will
12 determine whether or not Verizon places service as the top
13 priority in the future or whether other company goals will take
14 precedence.

15 That completes by summary.

16 MR. BECK: Mr. Poucher is available for cross
17 examination.

18 CHAIRMAN JACOBS: Staff, did you have any cross?

19 MR. FORDHAM: Commissioner, I think, Verizon would --

20 CHAIRMAN JACOBS: Since your positions are in line
21 with Mr. Poucher's position, I was going to allow you to go
22 first and then have the company go after. Ms. Caswell, would
23 your preference be to go first?

24 MS. CASWELL: Yes, sir.

25 CHAIRMAN JACOBS: Very well. Go ahead.

FLORIDA PUBLIC SERVICE COMMISSION

CROSS EXAMINATION

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BY MS. CASWELL:

Q Mr. Poucher, we're going to begin with a chart that Mr. Christian's passing out right now. I'd like you to take a few moments to look at that chart.

A Ma'am, what do you want me to do with it?

Q This is a chart on the actual number of repairs met along with percentages in the years at issue.

MR. BECK: I'm going to object. This hasn't been -- there's no foundation laid for this exhibit.

CHAIRMAN JACOBS: Ms. Caswell.

MS. CASWELL: All of this information came from Verizon's quarterly reports and, I believe, the number of repairs was produced in discovery over a number of documents. If Mr. Beck would like, we can spend some time trying to find those documents, we can proceed with the cross and --

MR. BECK: No, I object.

CHAIRMAN JACOBS: I'm sorry, go ahead.

MR. BECK: I do object. They had plenty of opportunity to present this by their own witnesses, if they choose to. They come in with a new document that hasn't been shown to the witness before, then there's no foundation for it.

MS. CASWELL: Well, again, all of the information was produced in discovery. If Mr. Beck would like the foundation, I can dig up all the documents that he has seen and that his

1 witness has seen. Again, these percentages come straight from
2 the quarterly reports given to the Commission, which are public
3 record, and they're in the record.

4 CHAIRMAN JACOBS: Well, your latitude on cross is
5 fairly broad and so, I think, to that extent, the opportunity
6 to present this on cross is a fairly broad one. However, what
7 I hear the objection to be is that this witness's expertise is
8 not -- to testify to these numbers and to this chart has not
9 been established. Therefore, if I'm not -- let me not speak
10 for you; that's the basis of your objection?

11 MR. BECK: My objection is this is a brand new
12 document, it hasn't been shown to the witness before. It would
13 have been appropriate for the company to have sponsored an
14 exhibit like this by one of its own witnesses, if they did the
15 compilations. These weren't compilations by Mr. Poucher, these
16 are by the company.

17 CHAIRMAN JACOBS: Right.

18 MR. BECK: If they wanted to put it in, they should
19 have had their witness sponsor it. They have brand new
20 calculations with --

21 CHAIRMAN JACOBS: We're not discussing whether or not
22 it's being entered into the record. I don't think you've asked
23 for it to be marked, have you?

24 MS. CASWELL: No. I'm going to ask for it to be
25 marked. It is a new document, but it's just a compilation of

1 information that's in the public --

2 CHAIRMAN JACOBS: Okay. Let's not move -- in my
3 mind, that's a separate question. Whether or not you can move
4 this document in, based on this witness's testimony, is a
5 different question all together from whether or not you can
6 question this witness as to the content of this document.

7 MS. CASWELL: Okay.

8 CHAIRMAN JACOBS: If this witness has knowledge or
9 expertise as to this and that's established and, I think,
10 that's the first basis of the objection that you haven't
11 established that he has knowledge or expertise as to these
12 numbers, then on cross, I think, you can question as to this.

13 Then, we get to the question later as to whether or
14 not you can enter this into the record based on this witness's
15 testimony. At that point we may have to deal with whether or
16 not you bring it with this witness or you sponsor it with your
17 witness.

18 I do echo the concern, however, that normally if
19 you're going to do that with a witness on cross, it is proper
20 to give advance notice of that. So, for the moment, then we're
21 at the point of determining whether or not this witness has any
22 expertise or knowledge by which you can cross examine him on
23 this docket.

24 MS. CASWELL: Okay.

25 CHAIRMAN JACOBS: I'll allow you to establish that

1 foundation.

2 BY MS. CASWELL:

3 Q Okay. Mr. Poucher, I'm not asking you to verify the
4 accuracy of any of the numbers on this chart, am I?

5 A You want me to verify the accuracy?

6 Q No, I'm not asking you to do that, am I?

7 A Not yet, but in response, I would tell you that I
8 don't know anything about these numbers, other than the fact
9 that I do know that there are numbers that you filed with your
10 quarterly reports with the Commission. And whether they add up
11 to these numbers or whether you even add them up in your
12 reports, I'm not sure.

13 Q Right, so I'm not asking you to verify the accuracy
14 of the numbers, correct?

15 A You haven't yet.

16 COMMISSIONER DEASON: Ms. Caswell, let me ask the
17 question. Okay. I don't know if these numbers are accurate or
18 not either, and I don't know if you plan to try to verify these
19 numbers but, I guess, my question goes to a broader -- at a
20 broader level. Just assuming that these numbers are correct,
21 it shows that over a four-year period, based on companywide
22 annual data, you missed the standards. The standard is 95%,
23 correct?

24 MS. CASWELL: Correct.

25 COMMISSIONER DEASON: So, even on a -- on an annual

1 basis companywide for all exchanges, you still missed the
2 threshold. So, I guess, my question is this seems to be
3 substantiating public counsel's case.

4 MS. CASWELL: Well, I'd just like to ask him a couple
5 questions about it, if I can.

6 BY MS. CASWELL:

7 Q Mr. Poucher, you've testified that Verizon missed the
8 repair standard 209 times over a four-year --

9 A Can you speak a little louder or clearer. I can't
10 hear you.

11 Q I'm sorry. You testified that Verizon missed the
12 repair standard 209 times over four years, correct?

13 A I think, that's cor-- say that again. No.

14 Q How many times have you said that Verizon missed the
15 repair standard over four years?

16 A I think, you're going to have to refer me to the part
17 in the testimony where I said that.

18 Q Okay. On Page 7, you talk about the repair rule --
19 I'm sorry, that's 569 violations you're alleging over four
20 years, correct?

21 A Sounds a little closer.

22 Q 569?

23 A Yes, correct. I think, that's correct.

24 CHAIRMAN JACOBS: That's only for --

25 THE WITNESS: Repair?

1 CHAIRMAN JACOBS: -- repairs only. There's another
2 number for installations, I thought.

3 BY MS. CASWELL:

4 Q According to this chart, looking at the bottom box,
5 how many repairs total did Verizon make over the four years?

6 MR. BECK: I have the same objection. We don't know
7 these numbers are accurate. There's no foundation for them.

8 MS. CASWELL: Assuming the numbers are accurate. I'm
9 not asking him to verify that they are.

10 A I think, you could do the math --

11 CHAIRMAN JACOBS: Excuse me. Hold on a second,
12 Mr. Poucher. There's an objection as to relevance. Is that
13 what I understood?

14 MR. BECK: It's lack of foundation. Again, I assume
15 that Verizon did some calculations. I don't know if they did
16 them correctly or not. You know, Ms. Caswell gave him the
17 wrong number for repairs saying it was 200 and it was 500.
18 That's my objection. There's no foundation for these numbers.
19 They wanted them in, they should have had their witness sponsor
20 them.

21 CHAIRMAN JACOBS: Okay. Now, we're not yet to the
22 question of whether or not this information comes into the
23 record, this document comes into the record. What we have now
24 is a question, as I understand, from Ms. Caswell to the witness
25 as to his knowledge of the basis of these numbers; is that

1 correct, Ms. Caswell?

2 MS. CASWELL: No, I'm not sure I put it that way.
3 I'm not asking Mr. Poucher to verify the accuracy of the
4 numbers.

5 CHAIRMAN JACOBS: Then, restate your question, then,
6 please.

7 BY MS. CASWELL:

8 Q I asked him what the chart says as to how many
9 repairs Verizon completed over four years. I'm just asking him
10 to read the chart --

11 A I'm reading -- can I answer? Okay. I'm reading from
12 your chart. Nowhere in my testimony do I state that the total
13 number of repairs that were handled by Verizon over the
14 four-year period -- that's not in my testimony. However, if
15 you want me to read this number, it's 1,291,066 out of
16 1,427,420 over four years, and that's something, I'm not sure
17 what that is, but I would just estimate that that might be the
18 total repairs that you handled over the four-year period, if
19 I've interpreted your chart fairly. None of this data is in my
20 testimony.

21 Q I understand that. And do you think a reasonable
22 person would conclude that 569 misses, compared to over 1.4
23 million repairs made on time, indicates a serious problem in a
24 company deliberately disregarding the standard?

25 MR. SHREVE: I have the same objection.

1 CHAIRMAN JACOBS: Sustained. The objection's
2 sustained.

3 THE WITNESS: I'll answer it.

4 CHAIRMAN JACOBS: Your counsel objected to it and I
5 sustained your counsel's objection, so I suggest you probably
6 don't want to answer that.

7 THE WITNESS: Okay.

8 BY MS. CASWELL:

9 Q Okay. Mr. Poucher, it's your position in this case,
10 isn't it, that each and every time Verizon missed the repair
11 and installation standards over the four years at issue, each
12 of those misses was willful, regardless of why it happened,
13 correct?

14 A I think, our testimony more -- that's not what our
15 testimony says, but I think that our testimony basically says
16 that Verizon's performance over the four years, in meeting the
17 Commission's rules in total, produced rule violations on a
18 continuing basis. And it's the total performance of the
19 company that failed and the customers of the state of Florida
20 were penalized because of it.

21 Q Now, the Commission can't fine Verizon for violations
22 unless they're willful, correct? Would you agree with that?

23 A We agree, wholeheartedly.

24 Q And you've recommended that the Commission fine
25 Verizon for every single one of the 773 apparent violations; is

1 that right?

2 A Correct. That's the only recourse that this
3 Commission has.

4 Q Right. And the conclusion to be drawn there is that
5 each of the violations was willful, in your opinion, correct,
6 or the Commission couldn't fine the company for it?

7 A Certainly. And I'll further explain that. The
8 violations that we're talking about are violations of service
9 rules established by the Commission, well-known to the company,
10 and the company knows that those standards are there. The fact
11 that they failed to provide the resources to meet every one of
12 those rule requirements constitutes willfulness.

13 Q Did you do any analysis of the circumstances
14 surrounding each and every one of the misses?

15 A No.

16 Q Why not?

17 A I don't think we had to. That's not the issue. The
18 issue is not whether you missed it in Myakka. The issue is
19 that you didn't have enough resources to do the job for Florida
20 in all of the exchanges that you serve.

21 Q Aren't the issues in this case framed in terms of how
22 many willful violations there were?

23 A Yes.

24 Q Then, isn't the issue how many willful violations
25 there were?

1 A Certainly.

2 Q And wouldn't you need to have done an analysis of
3 each apparent violation to determine whether it was willful?

4 A We haven't done that, and I don't think that's
5 needed.

6 Q Okay. A key element to your willfulness theory is
7 that Verizon let its outside plant deteriorate to the point
8 where it could not comply with PSC's repair and installation
9 standards; is that right?

10 A Say that again.

11 Q Your willfulness theory rests on the proposition that
12 Verizon let its network deteriorate, failed to perform
13 preventive maintenance to the point where the company could not
14 meet the repair and installation standards; is that right?

15 A I think, you'll find that in my testimony somewhere.

16 Q Right.

17 A Could you please -- when you ask me questions, could
18 you please refer to where I'm at in my testimony so I don't get
19 confused?

20 Q Okay.

21 A But I think that's correct, I don't think that's
22 wrong.

23 Q Okay. So, to make your case, you need to show the
24 existence of that progressive network decline; would that be
25 right?

1 A I don't think so at all.

2 Q I'm sorry, did you answer?

3 A I don't think that you are together. Explain your
4 question a little bit longer.

5 Q Okay. Part of your willfulness theory is that the
6 company let its network deteriorate and fail to perform
7 preventive maintenance in disregard of the standards. Now, to
8 prove that theory, you need to show the existence of the
9 network deterioration, correct, and GTE's failure to correct
10 that?

11 A I think, we would have to demonstrate that there was
12 deterioration of the network, that you didn't have an adequate
13 preventive maintenance program and, I think, we've done that.

14 Q Okay.

15 A You can't look any further than the letter of your
16 president, to the president of Verizon, when he said that they
17 needed a way to provide an adequate funding for preventive
18 maintenance for the TAC Focus program. I think, Mr. Beck
19 referred to that. That's probably the best demonstration that
20 you did not have an adequate preventive maintenance program in
21 place to do the job in Florida.

22 Q And we will get to the documents, but did you ever do
23 any inspection of Verizon's plant to determine its state over
24 the four years at issue?

25 A Yes, I looked at it.

1 Q When you say --

2 A In fact, we were there a couple -- about a month ago,
3 in Sarasota and Bradenton and we had a hearing down in one of
4 the older sections of that part of the exchange. There's a lot
5 of old plant in Tampa, in St. Petersburg, in Bradenton,
6 Sarasota, there's a lot of old plant in those exchanges.

7 Q And so, in one instance, you went and looked at some
8 plant and that would have been last month?

9 A No, I've been down there several times.

10 Q And could you name when you've been there and what
11 exactly you've done with regard to inspecting Verizon's plant?

12 A I took a trip down about two years ago, took about
13 three days, drove around all of Clearwater, which is one of the
14 spots that Peter Daks said that they had to have a solution to
15 solve the problem of St. Pete and Clearwater where everytime it
16 rained they were diluted with trouble reports that they could
17 not handle.

18 I went down and looked. However, you know, I think,
19 the people -- the documents that I quote in my testimony
20 clearly show that that was a problem. And those are Verizon
21 documents. That's not my opinion. And, I think, they should
22 carry more weight with the Commission than a visit by myself,
23 an outsider, who doesn't know exactly what's happening and
24 where it's at.

25 Q Okay. And we will get to the documents, but I'm

1 trying to understand the extent of your inspection of the
2 plant. You said about two years ago. That would have been in
3 what, 1999 or 1998 --

4 A That time frame, yes.

5 Q -- you took a trip for three days? Was that trip
6 specifically to inspect Verizon's plant?

7 A No, I was there for another purpose.

8 Q And what was the extent of your inspection? What
9 specific things did you look at?

10 A I looked at all of the facilities from north of --
11 from the beginning of your exchange all the way down through
12 all of Clearwater.

13 Q What exchange was that, Clearwater?

14 A Clearwater, Dunedin.

15 Q When you say all of the facilities, what do you mean
16 by all the facilities, every single piece of outside plant did
17 you look at?

18 A No. I viewed aerial plant all over the exchange.

19 Q And how long did you spend doing this?

20 A What?

21 Q How long did you spend doing these inspections?

22 A Three days.

23 Q So, the full three days you were inspecting Verizon's
24 outside plant?

25 A The majority of the three days, yeah.

1 Q Why did you take that trip to inspect Verizon's
2 plant?

3 A I just wanted to see what it looked like. I didn't
4 know that I would find anything. It's kind of hard to see much
5 when you look at a telephone pole.

6 Q And that, again, was in 1999 or --

7 A Around that time, yes.

8 Q Did you speak to any Verizon personnel at the time?

9 A No, we would not normally, you know, contact your
10 people and get them involved in a visit of that type.

11 Q And there weren't any reports of results of that
12 inspection in your testimony or elsewhere, were there?

13 A No.

14 Q And was that the only trip you took during the period
15 of 1996 through 1999?

16 A I've been down -- I was raised in St. Petersburg, so
17 I've been down a number of times, but not specifically to view
18 your plant.

19 Q Okay. Let's look at the documents you've cited to
20 support your theory of deterioration. One of the things you
21 repeatedly refer to is Verizon network trouble report rates.
22 Let's look at Pages 12 to 13 of your testimony. And, I
23 believe, you state that the report rate is generally reflective
24 of the quality of the outside plant maintenance effort and the
25 impact of the weather; is that right?

1 A I wouldn't object to that characterization.

2 Q I'm sorry, that's on Page 9 at Lines 12 to 13.

3 A Okay.

4 Q So, in your view, if the report rate is unduly high,
5 it could be a sign of poor plant maintenance; is that right?

6 A I think that would be a good indication, that there
7 was poor plant maintenance.

8 Q Okay. But a high trouble report rate could also
9 reflect the effects of weather; is that right?

10 A Yeah, and that's the other impactor. And the worse
11 your plant is, the more it's impacted by bad weather. In
12 today's tech--

13 Q And what --

14 A Let me go on.

15 Q Go ahead.

16 A With today's technology, if you have modern plant,
17 fiber jelly-filled copper cable, which is the technology today,
18 the weather does not affect you nearly as much, but if you have
19 a lot of old cables in there that have holes in them that suck
20 up the water when it rains, then basically your plant is going
21 to fall apart during bad weather, and in good weather you're
22 going to provide good service, which kind of explains the ups
23 and downs of your performance as you go through the year.

24 Q And what is the process you use for separating and
25 quantifying the respective effects of bad plant and bad weather

1 on a given report rate?

2 A I don't think you can separate those. They go
3 together.

4 Q Can't do that? In this case you've totally
5 discounted any effects of weather on Verizon's plant; is that
6 right?

7 A Say that again.

8 Q In this case, you've advised the Commission not to
9 consider the effects of whether on the plant; is that correct?

10 A You mean the numbers here in the testimony? Well,
11 this came from a Verizon chart.

12 Q I'm not sure what you're talking about. What are you
13 referring to?

14 A Well, let -- I'm sorry. What did you mean when you
15 said in this case?

16 Q Okay. In this case, you're advising the Commission
17 not to excuse Verizon from compliance for the results because
18 of any bad weather, correct?

19 A Correct.

20 Q Right. So, you've totally discounted the effects of
21 weather on the plant. And it's your view that it's just bad
22 maintenance that caused those service standard misses rather
23 than the weather, correct?

24 A Well, I think, you've probably understated my
25 testimony. Basically, we talked about the absence of an

1 adequate force to maintain the plant, we talked about the
2 absence of preventive maintenance dollars, we talked about all
3 of these factors together producing a report rate which the
4 company workforces were unable to cope with during times of bad
5 weather. And you'll find that in Peter Daks' letter to his
6 boss.

7 Q And we will get to the letter, but my question for
8 now is whether or not you have advised the Commission to ignore
9 the effects of weather and not to excuse Verizon for compliance
10 with the rules no matter how severe the weather may have been
11 during the four years at issue in this case?

12 A Two thoughts. The first thought is that Mr. McDonald
13 told you what the rules were, and the company never took
14 advantage of the rules by declaring a service emergency where
15 they had over 10% of their telephones out of service.

16 In other words, in order to comply, they were
17 required to comply in good weather and in bad weather. The
18 rules don't make the exception, except when you're over 10%,
19 and that never happened.

20 COMMISSIONER JABER: Mr. Poucher, I'm trying to
21 understand your position, too. If I understand your testimony
22 correctly, you're saying that had they had the appropriate
23 workforce and budget in place, they could have met the service
24 rules in spite of the bad weather?

25 THE WITNESS: Certainly, yes, ma'am.

1 COMMISSIONER JABER: So, you're not asking us to
2 ignore the bad weather as a mitigating factor to their not
3 being able to allegedly comply with service rules. You're
4 saying if the appropriate procedures, workforce and budgets,
5 were in place, they could have fully complied with the service
6 rules.

7 THE WITNESS: Yes. And I'm saying that with quality
8 plant, if they had actively pursued a preventive maintenance
9 program, which their own people say they did not pursue and
10 were not following, then the plant would be sufficient that the
11 existing forces could have provided service that would have met
12 your rules.

13 COMMISSIONER JABER: All right. And then, if I'm to
14 apply the willful standard to this situation, then it's your
15 position that the fact -- that they did not have the adequate
16 workforce and budget in place, that's what constitutes willful?

17 THE WITNESS: What we have tried to do in this case
18 is to find out why, because we knew that you would want to know
19 why. Anyone would want to know the reasons why this company
20 failed to meet its obligations to the Florida PSC. And based
21 on the documents that we found in the company, we think it
22 clearly shows that they did not put your service rules as a top
23 priority. They chose other company goals, such as profit, and
24 they didn't have enough people to do the job year in, year
25 after for four years in a row. They knew it, they continued to

1 violate them, and that's willfulness.

2 COMMISSIONER JABER: How do I define willful? Do you
3 -- I noticed in your testimony you don't define the word
4 anywhere or reference any law. Perhaps actually, this is a
5 place where I should ask procedurally, did the parties intend
6 to discuss what constitutes willful standard in the brief?

7 MS. CASWELL: Absolutely.

8 MR. BECK: Yes.

9 THE WITNESS: I would not -- the lawyers say that's a
10 legal term and they have all kinds of definitions. But I, on a
11 common sense nonlawyer type person, I see willfulness as
12 something that happens because you either intentionally did it
13 or intentionally failed to do it. It's not what they did, it's
14 what they failed to do, and they failed to take care of their
15 service obligations to you and that was willful and that's my
16 own definition. It may not fit a legal definition.

17 COMMISSIONER JABER: So you agree, then, that you
18 have to show that they intentionally did not have the workforce
19 and they intentionally cut back their budget.

20 THE WITNESS: That they chose other priorities, and
21 budget is one of them, yes, ma'am.

22 BY MS. CASWELL:

23 Q And again, returning to my question, Mr. Poucher, it
24 would be your view that every single one of the misses was
25 willful because of poor plant maintenance; is that right?

1 A It's inadequate force, poor plant maintenance,
2 absence of proper bonding and grounding. The list is in our
3 testimony, and we'll get to it later, I'm sure. There's about
4 seven or eight items that you failed to do that you should have
5 done.

6 Q So, that was a yes in response to my question?

7 A No. You asked me a narrow question. I gave you a
8 little broader answer.

9 Q Well, I'm trying to get yes or no answers, and I'm
10 not having much success here. I just asked you --

11 A Ask your question again, then.

12 COMMISSIONER DEASON: I believe, the answer was no,
13 because your question was limited to one item and, I think, he
14 agrees with the one item, but he said there's many more items.

15 Mr. Poucher, I would ask to the extent that you can
16 answer -- you answered the Commissioner's question every time
17 either yes or no, and I understood completely. To the extent
18 you can answer Ms. Caswell's question that way, it would be
19 helpful for me and, I think, it would speed this process along.

20 THE WITNESS: I'll try to do better.

21 COMMISSIONER DEASON: Thank you.

22 BY MS. CASWELL:

23 Q And Mr. Poucher, because you feel that the network
24 had deteriorated to such an extreme degree, you've advised the
25 Commission not to consider the effects of weather on the

1 compliance results at all; is that correct?

2 A I'm having -- you're tailing off at the end. Get
3 closer to the mike, but I think you said -- repeat it one more
4 time.

5 Q It's your theory, isn't it, that because the network
6 had declined to such a serious degree that the Commission
7 should not consider the effects of weather on the plant at all
8 in assessing the penalties on this case; is that correct?

9 A Yes. I think, the company's actions were such that
10 they allowed the plant to deteriorate -- the force to be
11 inadequate and they did not have a chance to meet the service
12 rules, because of inadequate force.

13 Q And getting back to the report rate, because you
14 focus on that as symptomatic of plant decline, what is the
15 report rate we can expect for a company with well-maintained
16 facilities and adequate service?

17 A Are you referring to Page 12 of my testimony?

18 Q I'm not referring to that. You're talking about
19 report rates and report rates being unduly high. And in order
20 to understand what a high report is, we've got to understand
21 what the report rate is for a company that you would consider
22 well-maintained and providing adequate service, don't we?

23 A The purpose of that chart was not to discuss the
24 report rate --

25 Q Mr. Poucher, can you answer me yes or no? I'm not

1 asking about the chart right now. I asked what report rate can
2 we expect for a company with well-maintained facilities and
3 adequate services?

4 A That's not a yes or no question, but I'll answer it
5 anyway.

6 Q Thank you.

7 A The report rate is calculated by so many different
8 ways that I don't think I could give you a single number. I
9 think that we could find in the Verizon documents what their
10 objective report rates are, based on a wide variety of ways
11 that they measure report rates. And I'm going to say, there's
12 a report rate for the total network, there's a report rate for
13 the outside plant. And those report rates are reflected in the
14 company's reports.

15 In looking at the report rate data here, I think, the
16 chart was prepared by Verizon people, and what they were trying
17 to demonstrate to their higher management was that the dollars
18 they spent on preventive maintenance had a positive impact on
19 the report rate and, therefore, the number of dispatches and
20 the number of people; and when they were spending large amounts
21 of money on preventive maintenance, that the report rate went
22 down.

23 Q Okay, we're going to get to that, but these report
24 rates are measured in terms of troubles per 100 lines, correct?

25 A I think, that's correct.

1 Q And is that -- you talked about different ways of
2 measuring report rates. Is that an industry standard practice,
3 do you know, troubles per line?

4 A Yes, correct.

5 Q Troubles per 100 lines?

6 A Mm-hmm.

7 Q So, again, I'm trying to get at your basis for
8 believing that some report rates are unduly high. And if it's
9 an industry standard practice to compute these things in terms
10 of trouble per 100 lines, what report rate could we expect for
11 a company with well-maintained plant?

12 A My memory, based on my operations, was about 1.5 was
13 a good number, but I'm not sure that that's correct today. I
14 worked a long time ago and modern plant, modern technology,
15 ought to drive that report rate down significantly lower than
16 that.

17 Q And a lot of other things have changed considerably
18 in the last 20 years since you worked at BellSouth, haven't
19 they?

20 A Certainly, yes.

21 Q And that rate is based on your memory, your memory of
22 what, the report rates at BellSouth?

23 A Yes, correct.

24 Q Do you consider any company in Florida to have a
25 report rate of a well-maintained company?

1 A I haven't analyzed that, so I don't know.

2 Q Okay, so you haven't -- all right.

3 So, do you know if these report rates are unduly high
4 compared to other companies in the industry?

5 A They seem high to me, but the point of this chart was
6 that the variation in the report rate is highly significant,
7 because that's what determines how many people you have to
8 have, how many troubles you have to deal with.

9 Q And what's your basis for believing that these report
10 rates are high? You said they seem high to you. What's your
11 basis for believing that?

12 A My belief that 1.5 is probably a good measure for the
13 outside plant for the network and, I think, this is a network
14 report rate, if I'm not mistaken.

15 Q Have you seen any studies on report rates, any
16 industry press, have you gone to seminars, anything like that,
17 to determine what kind of report rate might be reasonable for
18 that?

19 A Every one of your reports, which we have, deals with
20 the objective report rate for Verizon. I'd be more than happy
21 to go look at those report rates that are in the objectives
22 that you have, pull them out, and tell you how this compares to
23 the report rates.

24 Q But -- I'm sorry, go ahead. But those report rates
25 only show relative rates -- Verizon's own rates relative to one

1 another, correct?

2 A Well, you have an objective in Verizon, which is the
3 only thing your people have to go on.

4 Q We have an objective, an objective for what?

5 A For a report rate. That's how they measure -- that's
6 one of your many measures of performance.

7 Q Okay. And the report rate would customarily change
8 with the weather, typically, for a company, correct?

9 A Yes, that's correct. And the worse the weather gets,
10 the higher the report rate gets, and the worse your outside
11 plant rate is, the higher it gets also.

12 Q So, we couldn't name one report rate, say 1.5, as a
13 report rate for a well-maintained company under all
14 circumstances, could we?

15 A No.

16 Q So, those rates would vary, even for a
17 well-maintained company, correct?

18 A Correct.

19 Q Okay. Let's look at Page 12 where you do have the
20 chart listing the report rates. Actually, I've taken your
21 chart, the information here, and added two years for 1999 and
22 2000, so this is your REP-6 with two additional years, 1999?

23 A I have no knowledge about 2000. That was not in our
24 discovery.

25 Q I understand.

1 A I have not looked at anything from your company in
2 terms of discovery on 2000, so I can't speak to it.

3 Q You haven't seen anything in the discovery on 2000 in
4 the report rate in the documents we gave you?

5 A I don't think that there was anything that we were
6 given in 2000 that --

7 Q Okay. I understand your qualification, if we could
8 just look at the chart. What year had the worst report rate?

9 MR. BECK: I'm sorry, are you asking about the chart
10 you just handed out?

11 MS. CASWELL: Yes, I'm sorry. Can I have this marked
12 as an exhibit?

13 MR. BECK: I'm going to object, lack of foundation.

14 CHAIRMAN JACOBS: We'll mark it, and let me hear your
15 objection.

16 (Exhibit 7 marked for identification.)

17 MR. BECK: Lack of foundation. Apparently, this is
18 something they've prepared, their witness is not sponsoring,
19 and it's not been -- there's no foundation for it.

20 CHAIRMAN JACOBS: Is this a part of an exhibit from
21 one of your witnesses, Ms. Caswell?

22 MS. CASWELL: This is Mr. Poucher's exhibit with 1999
23 and 2000. And, again, that information was produced to public
24 counsel in discovery. I can pull out the documents, if you'd
25 like or I can just ask him the questions.

1 CHAIRMAN JACOBS: He's not testifying -- as he's
2 indicated, he's not testifying to 2000 data.

3 MS. CASWELL: Correct. I understand that. I'm not
4 asking him to verify the accuracy of the data.

5 CHAIRMAN JACOBS: Okay, so we're on the same track
6 again. I'll mark this, but at the time you move it in, I'll
7 entertain the objection --

8 MS. CASWELL: I understand.

9 CHAIRMAN JACOBS: -- as to its relevance to be
10 entered on his testimony. And this witness you, again, have to
11 establish a foundation as to his ability to testify to these
12 numbers.

13 BY MS. CASWELL:

14 Q Okay. Mr. Poucher, either by your chart on 12 or the
15 chart I've handed you, what year had the worst report rate?

16 A It would appear to me that it was 1998. Is that what
17 it appears to you?

18 Q No. It appears to me to be 1990, which says 2.3.
19 That's the highest report rate on there, isn't it?

20 A Correct.

21 Q So, if the report rate reflects the quality of the
22 outside plant, as you contend, would you say that outside plant
23 maintenance was the worst in 1990?

24 MR. BECK: Mr. Chairman, I'm going to object again.
25 Ms. Caswell's going into asking questions about the numbers

1 without first asking whether the witness can validate them or
2 not. And if he can't validate them, then there's no basis for
3 asking questions about it.

4 MS. CASWELL: Mr. Poucher included this chart in his
5 testimony to demonstrate what he believes is a correlation
6 between expenditures and number of customer trouble reports.
7 Now, I'm just using his data, his own data, to ask him
8 questions about what appears -- I mean, it's in black and white
9 here, highest report rate 2.3 in 1990.

10 CHAIRMAN JACOBS: Excuse me. As I understood this
11 chart, you simply supplemented his filing with year 2000 data.

12 MS. CASWELL: Well, right now, Mr. Chairman, we're
13 looking at his own testimony on Page 12. I'm not even looking
14 at that chart. This is in his testimony. He offered this
15 evidence on the basis of a chart that we produced during
16 discovery, which is REP-6, and he's offering this chart for a
17 certain conclusion, and I'm asking him about the chart to get
18 at the validity of that conclusion.

19 MR. BECK: Right. And, Mr. Chairman, just to be
20 clear, I have no question about questioning Mr. Poucher about
21 the data on Page 12 of his testimony, which is taken from
22 REP-6.

23 MS. CASWELL: Right.

24 MR. BECK: But I do object to the document
25 Ms. Caswell just handed out, which is not the same. It has

1 other numbers added to it that they added to it, and there's
2 foundation for that. So, if Ms. Caswell's not going to ask
3 about the document she handed out, I have no objection.

4 MS. CASWELL: I'm not asking about the document right
5 now, I'm sticking to the chart. I will tell you when I ask
6 about the document.

7 CHAIRMAN JACOBS: Okay.

8 MS. CASWELL: Okay?

9 CHAIRMAN JACOBS: You may ask your question.

10 BY MS. CASWELL:

11 Q Okay. According to your testimony, the highest
12 report rate on here is 2.3 in 1990, correct? We've already
13 established that.

14 A Correct.

15 Q And if the report rate reflects the quality of
16 outside plant, which you contend it does, would you say outside
17 plant maintenance was the worst in 1990?

18 A I believe, that I conceded a few minutes ago that the
19 report rate is a reflection of the quality of the outside plant
20 and the weather, which also has an impact on the report rate
21 and, I think, that the Verizon people would agree that both of
22 those factors are significant and 2.3 is the worst number here,
23 which means they have the highest report rate in 1990 of the
24 entire 10-year period.

25 Q Well, if you're going to eliminate --

1 COMMISSIONER DEASON: Excuse me, Ms. Caswell. Let me
2 ask a question so I can follow this a little bit better.

3 Mr. Poucher, under the column -- on Page 12 of your
4 testimony under the column Dollars Spent, what is your
5 understanding of what that represents?

6 THE WITNESS: Mr. Commissioner, I think, the best
7 source of that is REP-6. It's the chart, Page 1 of 1, REP-6,
8 which has all of the same data and these numbers come off of
9 that chart. And this chart was prepared by Verizon personnel.
10 It was actually prepared, I think, by Mr. Diamond at the
11 direction of his Florida president to try to demonstrate to
12 higher management in Verizon that there were significant
13 amounts of money spent on Defective OSP, at the top, stands for
14 outside plant capital.

15 COMMISSIONER DEASON: This was money spent to replace
16 defective equipment in outside plant?

17 THE WITNESS: Correct, mostly defective cable, and
18 this is what you will see and hear today as the -- primarily
19 the TAC Focus program.

20 COMMISSIONER DEASON: And if this is -- these are
21 capital dollars, these are expenditures for plant which is
22 going to have a useful life more than one year, correct?

23 THE WITNESS: Correct. And these are expenditures
24 that the company targeted to their defective outside plant
25 cable for the purpose of improving the report rate and

1 improving their service.

2 COMMISSIONER DEASON: Would you anticipate, for
3 example, if there were a higher expenditure in 1990, that it
4 would have an immediate impact on the trouble report rate in
5 1990 or would it have an impact over a number of years
6 following that expenditure?

7 THE WITNESS: You're correct, yes. The expenditure
8 of TAC Focus dollars, preventive maintenance dollars, is a
9 long-term program, and it's based at going towards the very
10 worst facilities that you have in the outside plant and
11 replacing them, which would have the maximum impact on your
12 report rate. But this is the long-term program, and you don't
13 see results from increased funding or decreased funding for
14 years.

15 So you can look at how this chart shows how they were
16 spending a lot of money back in 1990 and they spent a lot of
17 money back in 1991 and the report rates were coming down very,
18 very well. And then, in '92, '93, '94 they continued to cut
19 this budget and cut the preventive maintenance expenses, and
20 what happened? This chart shows that the report rate stopped
21 declining, leveled off, and then started going back up, and
22 that's exactly what I would expect to happen on a long-run
23 program. This is exactly what Peter Daks was writing to his
24 boss about when he said we have got to find the dollars to fix
25 the outside plant.

1 COMMISSIONER DEASON: Thank you.

2 BY MS. CASWELL:

3 Q Mr. Poucher, I'd like to explore exactly what you
4 think these numbers are. Can you explain to me what this money
5 was spent on? Is this apparent from the chart from your
6 review from the --

7 A What it was spent on?

8 Q Yeah, what exactly.

9 A No, it's not at all apparent from the chart, but I
10 think that Verizon and I both would agree that it's principally
11 the TAC Focus program, which is targeted towards old cable,
12 copper cable, and it does not involve central offices or
13 buildings or any of those other things.

14 Q So, you're assuming these dollars are from the TAC
15 Focus program?

16 A Say again.

17 Q You're assuming these dollars reflect the TAC Focus
18 program?

19 A The TAC Focus, according to --

20 Q Is that a yes or a no?

21 A Yes. However, could I explain a little bit further?

22 Q Yes, you can.

23 A TAC Focus is your primary preventive maintenance
24 program, and there's some other ways that the company spends
25 money, but most of the dollars are found in TAC Focus. I don't

1 believe that this chart was prepared solely with TAC Focus
2 dollars. I think, they were prepared using defective outside
3 plant cable, which would be a variety of programs.

4 Q But you really have no idea, do you?

5 A No, this is a chart -- this is your chart.

6 Q Right, so you have no idea what these numbers -- what
7 this --

8 A All that I know from this chart, and based on our
9 depositions of Mr. Diamond, was that these were the dollars
10 going to replace defective outside plant cable.

11 Q Do you know if the TAC Focus program was in place in
12 1990?

13 A No, I do not, but I do know that a preventive
14 maintenance program was in effect, because your chart shows
15 that, and you spent \$24 million on it.

16 Q Okay. And getting back to the report rate for 1990,
17 you wouldn't necessarily say that outside plant maintenance was
18 the worst in 1990, just because the report rate is high?

19 A That's not in my testimony, no.

20 Q So, do you believe the plant was properly maintained
21 in 1990?

22 A I don't think I can give you a yes or no on that. We
23 did no discovery on 1990. All we know is that they had a
24 report rate of 2.3. It was the highest of the entire 10-year
25 period, and they spent \$24 million on capital. That's all I

1 can tell you.

2 Q So, we can't tell from that report rate if the
3 facilities were adequate or not?

4 A I wasn't around here in 1990.

5 Q Okay. And Verizon was under rate of return
6 regulation in 1990, wasn't it?

7 A Say that again.

8 Q Verizon was under rate of return regulation in 1990;
9 is that true?

10 A Correct.

11 Q And were you involved in Verizon's last rate case in
12 1992?

13 A Correct.

14 Q And the Commission would have reviewed Verizon's
15 service quality in that case, right?

16 A Yes, I'm sure they did.

17 Q And the service they would have reviewed would have
18 been 1991, correct?

19 A Correct.

20 Q And did they find service to be adequate in 1991?

21 A I don't think that there's any showing, one way or
22 the other, but my remembrance of Verizon's service, based on
23 just review of the old reports, was that in that time period it
24 was pretty good.

25 Q Yeah, and I will show you the rate case decision just

1 to verify that.

2 A If you're asking me to say that you had good service
3 back in those days, I'd be glad to say yes.

4 Q Okay, then we don't need to look at the decision.
5 And the report rate in 1991 was 2.0, correct?

6 A Correct.

7 Q And that was higher than the rates for the price cap
8 periods of 1996 and 1997, correct?

9 A Correct.

10 Q Do you think the Commission made the wrong conclusion
11 about Verizon's service quality given the higher report rate
12 and your contention that the report rate reflects quality of
13 plant?

14 A If I heard your question properly -- you ought to
15 talk a little slower.

16 Q Okay.

17 A The Commission did not fine the company. We had
18 service hearings in Verizon territory. The report rate has
19 nothing to do with the compliance with the Commission rules.

20 Q But doesn't the report rate, in your view, reflect
21 the quality of the plant?

22 A Well, sure, but what this Commission is concerned
23 about is whether the company complies with its rules. The
24 Commission doesn't care about the report rate.

25 Q In your view, though, is that the quality of plant

1 directly affects the company's compliance with the rule,
2 correct?

3 A It is my position during the time frame of this
4 docket and the time frame of our discovery that it had a
5 significant impact.

6 Q So, there's a connection, in your mind, between
7 quality of service and quality of plant, correct?

8 A Yes. And, I think, if you go back to 1990,
9 obviously, you had enough people on the payroll to fix the
10 outside plant problems, no matter what that report rate was,
11 because you were not held in violation of the rules and, I
12 think, you had reported good service.

13 Q Mr. Poucher, I'm trying to understand when you
14 believe the decline in Verizon's outside plant began. At Page
15 9, Lines 7 through 10, you say that the increasing network
16 report rate that started rising in early 1997, Exhibit REP-1,
17 shows clearly that the company's network facilities were in
18 decline and highly subject to weather phenomena starting early
19 1997. That statement seems to indicate that the alleged
20 network decline started in 1997; is that right?

21 A Yes.

22 Q Okay, so would you agree that the network was
23 adequately maintained in 1996?

24 A No.

25 Q Well, then, if the network decline started in 1997,

1 then, isn't the conclusion to be drawn that the network was
2 adequate in 1996?

3 A What I've pointed out to you is that the trouble
4 report rate started leveling off in 1992 when the company
5 stopped funding adequate amounts of money to replace its
6 defective outside plant cable, and that report rate remained
7 level for a number of years and finally it began to rise at the
8 level of funding in '97 and it continued go up in '98 and it
9 hit another high in 1999 and a year of drought, I might add.
10 And what I'm saying is exactly what your company president said
11 to his boss, that we've got to have a TAC Focus program that
12 will deal with the outside problems so that we do not have
13 excessive report rates in periods of bad weather.

14 Q So, what is your response as to when the network
15 started to decline? When did it start to deteriorate? Was it
16 1997 or was it sooner than that?

17 A From this chart?

18 Q I'm asking you when it was. You don't need to refer
19 to the chart. I'm asking you what your opinion is as to when
20 the network started to decline. It seems to indicate from your
21 testimony that it was starting in 1997.

22 A My recollection of the documents that we reviewed was
23 that there was dissatisfaction on the part of that Florida
24 Verizon operations with the amount of money that was allotted
25 to do preventive maintenance in either late 1996 or 1997.

1 Q So --

2 A And that dissatisfaction clearly stated that we have
3 a problem with our outside plant. And, I think, that's a
4 problem that extended over a period of years. I cannot give
5 you a specific date, and I don't think they provided a specific
6 date in their correspondence as well.

7 Q So, you don't have a particular date as to when
8 Verizon started to let its network deteriorate, a particular
9 year, whether it was 1996, 1997, or 1992?

10 A Might have been '94; no, I do not. It might have
11 been '94, it might have been '95. Our correspondence that you
12 furnished to us started with '96, I think, but there was great
13 dissatisfaction at that point and time. So, I assume, based on
14 those letters, that the outside plant was inadequate to provide
15 good service.

16 Q You assume, so you're making assumptions based solely
17 on the letters as to when the network started to decline,
18 correct?

19 A Correct.

20 Q You don't have any letters before 1996, correct?

21 A No, we do not.

22 Q Okay, so but you seem to indicate that the decline
23 really got worse in -- started to get worse in 1997, correct,
24 from this statement; the increasing network report rate that
25 started rising in early 1997 shows clearly that the company's

1 network facilities were in decline and highly subject to
2 weather phenomenon starting early 1997.

3 A It would appear that, but it stopped getting better
4 back in 1992 when the stop -- the company stopped spending
5 money on preventive maintenance.

6 Q But you don't have any documents from 1992 about the
7 state of the company's network, do you, at that time?

8 A No, but I -- no, I do not, other than your document
9 which is shown in my REP-6.

10 Q All we have to go on are the relatively high report
11 rates in 1990 and 1991?

12 A Correct.

13 Q If, in your view, the report rates are indicative of
14 maintenance, then that's all we've got to go on at this point,
15 right?

16 A Sure, it's not very relevant, '96 to '99.

17 Q Okay, so getting back to your statement about the
18 decline starting in 1997, you can't offer an opinion as to
19 whether this start was actually earlier than that or not,
20 correct?

21 A No.

22 Q Okay. And let's look at your chart REP-1.

23 A Are you through with this chart?

24 Q Yeah -- well, for now. I'm going to use it later.

25 And this is the chart that you believe indicates the facilities

1 started to decline in early '97, correct?

2 A Correct.

3 Q And you say the report rates started rising in 1997.
4 Let's look at January 1997 report rate. What was that report
5 rate?

6 A Will you say it's 1.9?

7 Q No, it's 1.74, isn't it?

8 A Where do you find that?

9 Q '97 January, Florida 1.74.

10 A Excuse me, let me get my exhibit first.

11 MR. BECK: Ms. Caswell, you're referring to REP-1,
12 correct?

13 MS. CASWELL: Yeah, REP-1, Page 1, it says Florida
14 Region Network Troubles per 100 January 1996 through September
15 1998.

16 THE WITNESS: I got it.

17 MS. CASWELL: And Mr. Poucher's point is that the
18 trouble rates started to rise in early 1997.

19 BY MS. CASWELL:

20 Q Do you have the document, Mr. Poucher?

21 A Okay, I have it now.

22 Q Okay. Let's look at the report for 1997. That
23 was -- of January. That was 1.74, correct?

24 A Correct.

25 Q And what was it in January of 1996?

1 A 2.06.

2 Q So, that was higher in '96, right?

3 A For that month, yes.

4 Q And February, was that higher in '96 or '97?

5 A It was higher in 1996.

6 Q In March, was it higher in 1996 or 1997?

7 A It was higher.

8 Q And for April, it was a little bit higher for '97,

9 correct?

10 A Correct.

11 Q And in May it was lower in 1997, correct?

12 A It was about the same.

13 Q It was a little lower, 3.03 lower, correct?

14 A Yes. In June it was about the same.

15 Q In June it was about the same?

16 A Yes.

17 Q So, for the first six months, the report rate seemed

18 pretty consistent with the rates in the same months in 1996.

19 And, in fact, a number of them were lower, correct?

20 A Sure.

21 Q So, there's no evidence in these first six months of

22 any trend toward increased trouble reports, correct?

23 A Correct.

24 Q In the first six months?

25 A Mm-hmm.

1 Q So, there's no evidence of network deterioration from
2 this chart, correct?

3 A Not in terms of the report rate, no.

4 Q And that's how you're trying to prove network
5 deterioration through the report rate, correct?

6 A Well --

7 Q And I can read you your statement.

8 A No, that's not correct, and I cannot accept that,
9 Kim.

10 Q Well --

11 A The report rate, if it's perfectly dry out there, as
12 it has been for the last six months here, the report rate is
13 going to go down, whether your plant is outstanding or whether
14 your plant is bad, because if it doesn't rain, nothing happens.
15 It's only when rain hits that you find out whether you have a
16 problem with your bad plant, and that's when all the trouble
17 reports come in.

18 And all we're saying here in all of this testimony is
19 that the problem is you didn't replace the bad plant. And
20 therefore, when the rain finally hit, you were totally
21 incapable of handling the load. If you had good plant in
22 there, that would not have happened.

23 COMMISSIONER JABER: Mr. Poucher --

24 MS. CASWELL: But --

25 THE WITNESS: Yes, ma'am.

1 COMMISSIONER JABER: -- with respect to Page 9 of
2 your testimony, Lines 7 through 10.

3 THE WITNESS: Page 9?

4 COMMISSIONER JABER: Yeah, Page 9 of your testimony,
5 Lines 7 through 10, you made the statement and, please, correct
6 me if I'm wrong, because I want to understand your position.
7 You're making the statement that there was a decline in network
8 facilities in 1997 and, therefore, the PSC should make a link
9 between poor budgeting, poor workforce and lack of compliance
10 with service rules.

11 THE WITNESS: Correct.

12 COMMISSIONER JABER: And you substantiate your
13 sentence, your testimony, by referring to REP-1. And the
14 question is what on REP-1 shows that the report rate was
15 starting to rise in early 1997?

16 THE WITNESS: The first six months of 1997 were
17 extremely dry.

18 COMMISSIONER JABER: Okay.

19 THE WITNESS: Verizon made -- I think, if you look at
20 the service reports, they didn't commit many violations during
21 that time period either. It was not until the beginning of the
22 summer rains that the report rate began to climb. And this was
23 the first time in several years that it had started, reversed,
24 and headed back in the other direction, because prior to that
25 report rate was declining.

1 COMMISSIONER JABER: So, you're looking at solely
2 1997. You're not comparing '97 to '96?

3 THE WITNESS: Not -- I don't think -- I don't think
4 you can make an absolute comparison year to year, because
5 weather does change. Even with the good plant, you're going to
6 get more trouble reports, because of rain.

7 COMMISSIONER JABER: Okay. But if I wanted to
8 compare '96 to '97, the trouble reports were actually getting
9 better in 1997, correct?

10 THE WITNESS: Well, what you have to do is look at
11 the whole year, because when you look at the entire year, '97
12 deteriorated badly with the summer rains and then the beginning
13 of El Nino, which kicked in in October, November, December and
14 truly the weather got terrible later on in '97 and that's when
15 the report rates turn back around.

16 COMMISSIONER JABER: All right.

17 BY MS. CASWELL:

18 Q But Mr. Poucher, you are making a direct connection
19 between report rate and state of decline in the company's
20 facilities, correct? That's stated clearly in your testimony;
21 is it not?

22 A It's right in there, correct.

23 Q Right in there. And you would have to agree that the
24 report rate did not start rising, do not progressively rise for
25 the first six months of '97 compared to '96 --

1 A Correct.

2 Q -- wouldn't you?

3 A Yes.

4 Q And you mentioned that it was extremely dry in those
5 six months. Do you have any evidence in that regard?

6 A Just memory and recollection. I think, if you look
7 at the results, you had excellent results the first half of '97
8 also.

9 Q And you're assuming that's because of the weather?

10 A Yes.

11 Q And do you know if the weather in the first months of
12 1997 for six months there was drier or wetter than the first
13 six months of 1996?

14 A No, I can't -- I have no recollection about '96, what
15 it was like.

16 Q Okay. So, if we're going to make a connection
17 between network decline and report rate we can't draw any
18 conclusion about network decline for the first six months of
19 1997, correct?

20 A Well, I think, they stand for what they stand for,
21 but I'll answer it, yes.

22 Q Okay. I'm sorry, you answered --

23 A Yes.

24 Q Yes, we can't make such a conclusion or yes, we can
25 make such a conclusion?

1 A I'll agree with whichever way you want to put it.

2 Q Okay. Okay. And in July we see a spike in the
3 report, correct? It's 2.40 for 1997. In July of 1996, it was
4 1. --

5 A Yes, that's correct.

6 Q -- 1.93?

7 A Mm-hmm.

8 Q Do you have a copy of Mr. Ferrell's testimony with
9 you?

10 A No, I do not.

11 Q Let me show. And what that looks like is a
12 lightning stroke count analysis --

13 MR. BECK: I'm sorry, where are you referring to?

14 MS. CASWELL: I think, it's JAF-11. He just took my
15 copy. I think, it's JAF-11.

16 A Yes.

17 BY MS. CASWELL:

18 Q JAF-11, Page 2.

19 COMMISSIONER JABER: Ms. Caswell, let me make sure,
20 this testimony is no longer confidential?

21 MS. CASWELL: Correct.

22 BY MS. CASWELL:

23 Q Do you see the chart with lightning stroke counts,
24 Mr. Poucher?

25 A Yes.

1 Q And what's the highest number of lightning strokes
2 recorded for a month on there, in what month would that be?

3 A I haven't looked at every number, but I assume that
4 July of '97 was the highest.

5 Q Yeah, over those six years, correct?

6 A Yes.

7 Q Okay. Now, let's look at the third-quarter report
8 1997 for out of service within 24 hours. I've handed out all
9 of the third quarterly reports. Do you have copies there?

10 A The third-quarter report of what?

11 Q 1997.

12 A Where's -- it's not in my testimony.

13 Q No, but they're on the Official Recognition List.
14 Everybody -- did you get copies?

15 MR. BECK: I have a copy. Do you have a copy for the
16 witness?

17 BY MS. CASWELL:

18 Q Third quarter. Third-quarter report for 1997.

19 A Are you through with the lightning strokes? Kim, are
20 you through with the lightning?

21 Q I'm through with that chart, yes. I'd like you to
22 look at the third-quarter report for 1997.

23 A What page?

24 Q Explanation of missed service standards Schedule 11,
25 out of service cleared within 24 hours. It doesn't have a page

1 number in my copy, and that would be for the data month July of
2 1997.

3 A Okay. I'm thumbing through this document. Would you
4 tell me what you're looking at?

5 Q Okay. It's Schedule 11, explanation of missed
6 service standards, third quarter 1997, data month July 1997.

7 A Out of service cleared within 24 hours?

8 Q Correct.

9 A Okay.

10 Q And if you would look at the explanations down below,
11 would you agree that the explanations cite severe weather in
12 the first two weeks of July to the point of declaring a service
13 emergency for three days?

14 A Sure.

15 Q Okay. And so, considering this explanation, along
16 with the lightning stroke count analysis, do you think it would
17 be more reasonable to attribute the spike in July to sudden
18 network deterioration or to weather?

19 A I would attribute it to both.

20 Q So, the network was not in decline for the first six
21 months of 1997 and suddenly it started to decline in July when
22 the severe weather hit?

23 A That's not at all what I said.

24 Q Okay. How would you characterize?

25 A Well, ask your question. What is your question?

1 Q I asked you if it would be more reasonable to
2 attribute the spike in the trouble report in July to sudden
3 network deterioration that just began in July or to the
4 weather?

5 A And I answered that the results in July are a
6 combination of network deterioration or bad plant and weather.

7 Q And you don't think the Commission should consider
8 the effects of that weather at all on Verizon's compliance for
9 July, correct, July 1997?

10 A Correct, correct.

11 Q Okay. And that's because its network is in such a
12 severe state of decline, correct?

13 A Correct.

14 Q At that point in July 1997?

15 A As well as in other times, probably.

16 Q But I'm just focusing on July 1997.

17 A Correct.

18 Q And the reason you know why the network was in such
19 decline is by looking at the report rate, correct?

20 A As well as Peter Daks' letters and correspondence.

21 Q Okay. And we will get to those letters, but for
22 purposes of your testimony you're trying to make a point by
23 looking solely at the report rate here, correct, because you're
24 saying the report rate shows it was in decline?

25 A Yes, I think, it's a good indicator. I think, it

1 bears out what the company correspondence covers more clearly
2 and more completely.

3 Q Okay, and we will go over that. Are you familiar
4 with the weather phenomenon known as El Nino?

5 A Yes.

6 Q And would you agree that El Nino caused torrential
7 rains, flooding, lightning and other severe weather toward the
8 end of 1997 and the first quarter of 1998?

9 A That's in your testimony, I think.

10 Q Uh-huh. And are these effects -- let's look at the
11 service quality reports again for the first quarter of 1997.

12 A Okay.

13 Q Let's look at October first. It says explanation of
14 missed service standards fourth quarter 1997, data month
15 October 1997, and there's an explanation in the middle that
16 says the Florida region had 8.45 inches of rain, it talks about
17 excessive rainfall, and unusually high service problems.

18 A Keep going. I don't have the exhibit, but I'll --
19 subject to check, that's fine.

20 Q Okay. Well, you could probably accept subject to
21 check that for October, November, and December, Verizon's
22 explanations for its service misses include severe weather due
23 to the effects of El Nino, correct?

24 A Correct, yeah, the fourth quarter was terrible, bad
25 weather, I agree to that.

1 Q And then, those explanations would contain the same
2 sort of factors for first quarter of 1998, January, February
3 and March, correct?

4 A I think, they were very consistent, yes.

5 Q And if we look at the data here, October, November,
6 December, January, February, March, all of those months had
7 higher report rates than 1996 over that same period, right?

8 A Yes.

9 Q And that, again, would be due to the effects of El
10 Nino, correct?

11 A Correct.

12 Q But you -- do you still believe that the network
13 report rates, the end of 1997 into '98, more likely reflect
14 progressive network deterioration or the effects of the
15 weather?

16 A Both, as I said before.

17 Q And even though it reflects both, you would advise
18 the Commission to ignore the effects of weather?

19 A If I were looking at a company that didn't have a
20 four-year history of rule violations, I would take that into
21 account, if I were the Commission. But the fact that this
22 company didn't have enough people to do the job when the
23 weather was good automatically means that they didn't have
24 enough people to do the job when the weather was bad and,
25 therefore, it is my recommendation that you ignore it.

1 There are about three months in there when El Nino
2 was very, very dominant, October, November, December of '97.
3 You can ignore those violations, if you want to, but the
4 company would have had a much better chance at meeting your
5 rules had they had an adequate number of people on the force
6 and if they had paid more attention to replacing their bad
7 outside plant prior to that.

8 Q Do you think that Verizon could have complied with
9 the service standards during that period if it had had
10 well-maintained plant there would have been no violations?

11 A We'll never know, because they didn't do it.

12 Q And moving from this chart, specifically, to the more
13 general issue of weather, you would agree, wouldn't you, that
14 weather is a key point of contention to this case?

15 A Repeat that.

16 Q Would you agree that weather is a key point of
17 contention in this case between public counsel and Verizon in
18 regards to the fact that Verizon believes that the Commission
19 should consider weather and you believe the Commission should
20 not consider weather in assessing willfulness?

21 A No, I do not agree with that, and we've stated
22 Verizon misses the Commission rules in good weather and in bad.
23 It is not the weather that caused Verizon to fail to meet the
24 condition rules.

25 Q Okay. So, we have a difference of opinion as to

1 whether the Commission should consider weather in assessing
2 whether Verizon's violations were willful, correct? You think
3 it shouldn't --

4 A Yes.

5 Q -- and we think it should.

6 A We have a very difference of opinion.

7 Q Right.

8 A And the rules clearly state how you're supposed to
9 deal with weather, and Verizon never declared a service
10 emergency with the Commission, never declared that they had
11 over 10% of their customers out of service and, therefore, you
12 violated the rules, and the Commission witness just told you
13 that.

14 Q But the question the Commission has to decide is
15 whether we willfully violated the rules, correct?

16 A Correct.

17 Q Correct. And we could probably talk about weather
18 all afternoon, because there's lots of weather information
19 here, but I'd like to avoid having to go through that
20 month-by-month analysis in the hearing, so I'm going to try and
21 make this quick. Would you agree that weather in some years
22 and in some months and on some days may be, more or less,
23 extreme than in other years, months or days?

24 A Yes.

25 Q So even in a place like Tampa Bay, characterized by

1 seasonally extreme weather, there's still the possibility of
2 extraordinary weather, correct?

3 A Certainly.

4 Q And a number of the documents in this case discuss
5 extreme weather and its effect on the service results over the
6 period at issue; is that right?

7 A Are you talking about the excuses that the company
8 made to the Commission as to why they failed the rules; is that
9 it?

10 Q The documents would include, for example, Verizon's
11 quarterly service reports filed with the Commission --

12 A Correct.

13 Q -- and Verizon's responses to Staff's interrogatories
14 in this docket, some of your own exhibits, and Mr. Ferrell's
15 exhibits, correct?

16 A Correct.

17 Q And it's your position that no matter the nature or
18 severity of the weather event discussed in these documents, the
19 Commission should not consider weather in determining whether
20 Verizon willfully violated the standards, correct? Go ahead.

21 A No. It's our position that the Commission ought to
22 look at the whole case and all of the facts and make the
23 decision. They can consider weather, if they want to, but our
24 recommendation is you ignore it because of the other
25 extenuating factors.

1 Q So, they should ignore it in the willfulness
2 determination, in your opinion?

3 A Yes.

4 Q And in your review of Verizon's quarterly service
5 reports submitted to the Commission, did you notice that in
6 some instances Verizon cites damaged cables as the reason for
7 missing service reports?

8 A Yes, I've seen that reason.

9 Q And in your experience, does it sometimes happen that
10 a third party, someone other than Verizon will cut a Verizon
11 phone cable putting a number of people out of service at the
12 same time?

13 A Correct. That's generally how it happens.

14 Q And this kind of thing could result in an unexpected
15 repair demand that's impossible to anticipate; is that right?

16 A Would you repeat that last sentence?

17 Q This kind of thing might result in unanticipated
18 repair demand loads; is that right?

19 A Well, a company that doesn't anticipate that it's
20 going to have cable cuts is in real trouble, but a cable cut
21 can present a real problem for the company in terms of the
22 large number of outages, I would agree to say that, that's
23 okay.

24 Q And would you agree that a company can't anticipate
25 when or where a cable might be cut?

1 A That's correct, they've got to be ready to fix it no
2 matter where they are.

3 Q But if Verizon --

4 CHAIRMAN JACOBS: Excuse me, Ms. Caswell, how close
5 are you to --

6 MS. CASWELL: Oh, not close at all.

7 CHAIRMAN JACOBS: Okay. We're going to take, then, a
8 break, come back in ten minutes. Thank you.

9 MS. CASWELL: Okay.

10 (Recess taken.)

11 CHAIRMAN JACOBS: Let's go back on the record.
12 Ms. Caswell.

13 BY MS. CASWELL:

14 Q Mr. Poucher, I think, we were discussing cable cuts.

15 A Yes.

16 Q Now, if Verizon missed service results in particular
17 periods because of cable cuts or damage caused by others, would
18 you still consider those misses to be willful?

19 A Certainly.

20 Q Even though Verizon did not cut the cable itself and
21 had no way of anticipating the cable would be cut, you would
22 consider those misses willful?

23 A Well, the inability to fix cable cuts is based on the
24 ability of your people to fix cable cuts. A customer doesn't
25 care whether a truck ran over a cable, whether it was a tornado

1 or whether it's water in his network interface. All the
2 customer cares about is getting service back when it's out of
3 service.

4 Cable cuts are the responsibility of the company, and
5 they mobilize their forces when they have a big one, they know
6 they have a lot of people out of service. Rarely, I cannot
7 imagine a normal cable cut extending beyond a 24-hour period
8 for restoration if the company handles the problem properly.

9 Q And I understand that cable cuts may lead to
10 violations or that would be Verizon's explanation, but what
11 about a cable cut is willful on Verizon's part?

12 A Willfully -- what do you mean, a willful cable cut?
13 What's that?

14 Q Well, the Commission -- I'm wondering that myself.
15 The Commission can't assess a fine unless a violation was
16 willful, correct?

17 A Correct.

18 Q And you're telling the Commission to fine Verizon for
19 violations that were associated with cable cuts, correct?

20 A Among other things, correct.

21 Q And why is a cable cut willful on Verizon's part?

22 A Well, for one thing, because it's one of the reports
23 that the Commission counts when they calculate whether or not
24 you've complied with the rules. So, knowing that those
25 troubles are part of the base, then you have the obligation to

1 fix them. You're the only people who can fix a cable cut, and
2 we can't blame it on somebody else.

3 What the problem is, is you've got to get out there
4 and fix it expeditiously, because you have so many customers
5 out of service. And my experience has been that the
6 overwhelming majority of cable cuts are fixed in the same day
7 that they're cut.

8 Q And I'm still trying to understand where the
9 willfulness is in that scenario. Did Verizon intend to cut the
10 cable? Did it intend to violate the rule?

11 A That's not my testimony.

12 Q And I'm trying to --

13 A My testimony is that the Commission needs to look at
14 the entire performance of the company in fixing troubles. Cut
15 cables are just part of the bag.

16 Q And they're willful violations?

17 A There's rainfall troubles and there's cut cable
18 troubles, and there's troubles when the truck runs over and
19 knocks down a drop. All these are part of the calculations
20 that this Staff makes to determine whether you're in
21 compliance.

22 Q But the question is not just compliance, but willful
23 noncompliance, correct?

24 A We've been over that, but I will agree.

25 Q Okay. I'd like to continue on with the specific

1 items you cite to support your theory of network deterioration.
2 We've already gone over the report rate, and the second thing
3 you focus on is alleged bonding and grounding problems is that
4 of evidence of network decline?

5 A Yes.

6 Q What is bonding and grounding?

7 A Bonding and grounding is what telephone people refer
8 to. It's a grounding of the facility that goes into a home,
9 the electrical power box is grounded -- has to be grounded, the
10 telephone entrance cable has to be grounded, the inside wire
11 has to be grounded, every element of outside plant in GTE's
12 network has to be able to be grounded, because that's what
13 takes lightning and takes it away from the facilities and takes
14 it to ground. It's a protective measure that's essential for
15 the proper operation of your facilities.

16 Q Have you had any bonding and grounding training?

17 A Yes.

18 Q When was that?

19 A I worked with BellSouth for a number of years. My
20 job was to manage installation, repair, and construction forces
21 for an area that went all the way to the Alabama line and
22 started here in Havana, so we were quite familiar with bonding
23 and grounding.

24 Q And did you have specific training in bonding and
25 grounding anytime during that period; you, yourself?

1 A We did not have a bonding and grounding school, but
2 do you want to find out if I'm an expert on it?

3 Q Yeah.

4 A Okay. When I was with Bell System, one of my
5 assignments was the engineering director of network of
6 maintenance for business services, which is the part of -- it
7 was a Georgia operations -- it was a part of the company that
8 dealt with all the PBXs, all of the services provided to
9 business customers, including some of the largest business
10 customers in BellSouth territory.

11 We had significant problems with lightning. We had
12 significant problems with bonding and grounding. These were
13 the early years of the beginning of the use of stored
14 technology, the beginning of the use of computers in central
15 offices. And our systems, and most all computers, were highly
16 vulnerable to lightning, power surges in those early days,
17 we're talking about 1980, in that time frame.

18 I spent a week with the power expert, the lightning
19 expert, Bell Laboratories, who was the guru of lightning and, I
20 think, I learned a lot about lightning and its impact on the
21 facilities that are used to provide telephone service. And I
22 came back from those experiences with a better understanding as
23 to why our systems were failing due to power surges and
24 lightning in the network. I think, I understand it.

25 Q What period did you hold that job you're talking

1 about? What years was that?

2 A I'd say, 1978 to 1980.

3 Q Do you suppose that since 1978, industry's thinking
4 on bonding and grounding has evolved somewhat?

5 A Oh, I would hope it has.

6 Q Okay. And technology has changed a lot, right, since
7 that time?

8 A Technology has changed, but the problem has not.

9 Q Okay. And would you agree that even well-bonded and
10 grounded plant would be susceptible to the effects of
11 lightning?

12 A Yes, but what I'm maintaining is that GTE failed to
13 have an effective bonding and grounding program in its outside
14 plant.

15 Q And when did you --

16 A Can I continue --

17 Q Sure.

18 A -- if you want to talk about their program. This is
19 the Florida Region review from July 13th of 1999. This is a
20 review that's made with all of the top management of Verizon,
21 and this was the July review, it's a quarterly review. In this
22 review on Page 11 --

23 Q I'm sorry, what -- Mr. Poucher, can you tell us what
24 document you're referring to and where it is in your testimony?

25 A Yeah, it's in my Surrebuttal Testimony.

1 Q I think, maybe we should save it for Surrebuttal,
2 then, don't you?

3 A Well, you're asking about bonding and grounding, and
4 I'll point out --

5 Q Okay.

6 A -- the bonding and grounding issues.

7 CHAIRMAN JACOBS: Excuse me. I'm going to have to
8 remind you guys that it's very difficult for the court reporter
9 to get your discussion down correctly if you talk to one
10 another at the same time, so please try and let one another
11 finish before you start.

12 MS. CASWELL: Okay.

13 CHAIRMAN JACOBS: As to the line of questioning, it
14 was brought up on cross, I think, if it is in his Surrebuttal,
15 it's okay for him to bring it up now.

16 MS. CASWELL: Okay.

17 A The title of this document is "Current Challenges."
18 And the one on this page says outside plant condition and
19 modernization. These are the challenges that Bell -- that
20 Verizon was telling itself, here are our problems: High
21 trouble volumes, poor quality and previous construction and
22 repair, significant bonding and grounding issue, maintenance
23 required on digital carriers.

24 And then, down in the next page it again says these
25 are the current initiatives that they were trying to initiate

1 in July of 1999 at the end of this period of time: Employee
2 bonding and grounding training, actively pursuing business
3 cases targeting reduced troubles in bonding and grounding
4 improvement.

5 BY MS. CASWELL:

6 Q Mr. Poucher, where does that appear in your
7 surrebuttal? I'm not able to find it. What's the exhibit
8 number? What are you reading from? What's the exhibit number?

9 A I'm reading from your Florida review.

10 Q And what's the exhibit number in your testimony?

11 A I don't have it right here, but I will find it. Do
12 you want me to go get it?

13 Q Yeah, I think, we should so we can all refer to it.
14 I think, we should --

15 MR. BECK: I think, it's REP-40, I believe.

16 MS. CASWELL: 40? Okay, yeah, it is. Okay, it's 40.

17 A So, to summarize, I would say you had, as of July
18 13th, 1999, a significant bonding and grounding problem. I
19 didn't have to be an expert to find that out, because your
20 people told us.

21 BY MS. CASWELL:

22 Q I'm sorry, what did you -- what start date did you
23 give for the beginning of Verizon's inattention to bonding and
24 grounding? When did that start?

25 A These things don't happen overnight. I think, we're

1 talking about something that had happened over a long period of
2 time.

3 Q And when did it start? When did Verizon begin to
4 neglect bonding and grounding?

5 A I don't know. I don't have the slightest idea. I do
6 know that this document says in July of 1999 that you had a
7 significant problem. I also know that in January of 1998, in
8 my testimony, you're going to see a letter from Mr. Williams
9 there was a staff person from Verizon headquarters that says
10 exactly the same thing in 1998.

11 Q Okay. Let's look at this document, your REP-40 on
12 your Rebuttal. Does it indicate that Verizon had identified a
13 bonding and grounding problem and was ignoring it or that it
14 was taking some action to remedy that problem?

15 A This indicates that Verizon had failed to have an
16 effective bonding and grounding program in place in Verizon
17 territory in Florida July of 1999. That happened over a period
18 of time. It was also brought to the attention of the top
19 management in Verizon headquarters in Texas in early 1998, in
20 an exhaustive letter, explaining all of the same problems that
21 we're looking at here. So, these were well-known problems,
22 nothing was done to take care of them in '98 and, obviously,
23 nothing had been done until late 1999.

24 Q Okay. And focusing, again, on this document, Tampa
25 Bay is the lightning capital of the world second only to the

1 Amazon River Basin, correct?

2 A Correct. I was raised in St. Petersburg, and I can
3 appreciate that.

4 Q Okay. And would you expect bonding and grounding to
5 be a continuing emphasis for the company, if that were true?

6 A I think, my testimony says you ought to be the leader
7 of the world of bonding and grounding.

8 Q Right.

9 A And it is a shock to me that you have a problem in
10 St. Pete-Tampa, which is the lightning capital of the United
11 States, at least.

12 Q So, where this says significant bonding and grounding
13 issue, do you have any details concerning the significance of
14 that problem, what exactly the issue was, how the plant was
15 affected, anything like that, any details about the nature of
16 the product?

17 A Well, it says a couple of things. It says you have a
18 problem. On the next page you need bonding and grounding
19 improvement, and you also say on this page that you need
20 bonding and grounding training, special training, for your
21 people, and I believe that Mr. Ferrell did that.

22 Q Okay. Where does it say -- okay, employ bonding and
23 grounding training. So, these were the activities the company
24 had decided to undertake in response to bonding and grounding
25 concerns, correct?

1 A Correct.

2 Q And there's no indication that any of these
3 activities would not be funded, correct?

4 A Well, the problem was that they weren't funded
5 earlier, and that's the point of my testimony.

6 Q So, is that a yes or no?

7 A Yes. Wait a minute.

8 Q Is there any indication on this document that these
9 activities were not funded?

10 A Yes, not on this document.

11 Q Okay, so not on this document.

12 A But as I assume that you have a problem, because it
13 hadn't been taken care of earlier, and that's my rationale, I'm
14 sorry.

15 Q And the reason you feel it hadn't been taken care of
16 earlier is, what, have you seen any other documents saying that
17 there was a continuing bonding and grounding problem that the
18 company was ignoring?

19 A Yes. It's in my -- hold on just a second.

20 Q Okay.

21 A If you'll look in my Surrebuttal Testimony, Exhibit
22 REP-35, Page 5.

23 Q I'm sorry, why are you referring to the rest of that
24 document?

25 A REP-35, you can start on Page 1, because I'll explain

1 what it is first.

2 Q Can you just give me a minute, because I'm trying to
3 separate your -- what's in your Surrebuttal from your Direct,
4 and that's the problem, because you're going back and forth.
5 Do you refer to this document at all in your Direct Testimony?

6 A Yes. I'm not sure where.

7 Q Where?

8 A It's in my Surrebuttal.

9 Q But it's not in your Direct, correct?

10 A It's in my exhibit so we, obviously, referred to it.

11 MR. BECK: Kim, I believe, your pending question is
12 what evidence did he have this was a problem before July of
13 '99, so he's giving you the evidence that he has.

14 MS. CASWELL: Yeah, and I asked him of evidence that
15 the company had had a problem and ignored it.

16 MR. BECK: Right. And he's about to show you the
17 January '97 document that talks about it.

18 MS. CASWELL: Okay.

19 BY MS. CASWELL:

20 Q Okay. And on that document, can I ask you a few
21 questions on that document?

22 A Sure.

23 Q Okay. This was a study -- this pertained to a study
24 done by a headquarters team to assess potential outside plant
25 issues in Florida, correct?

1 A It's my understanding, yes.

2 Q In 1997 and 1998. And the Florida Region requested
3 this review to be done, correct?

4 A I don't know at all why it was done. I would assume
5 that the Service Assurance team had an ongoing maintenance
6 responsibility for all of Verizon, but that's an assumption.

7 Q Mr. Poucher, there was a cover letter on this
8 document. Do you recall that cover letter?

9 A I'm looking at Page 1 of the letter to Woodrow
10 Williams, and that's REP-35, Page 1.

11 Q But there was a cover letter on the document besides
12 that.

13 A I don't have it.

14 Q Do you -- I can show it to you.

15 A Sure. Okay.

16 Q Okay. And if you look at the third paragraph, do you
17 see where it says the Florida Region asked Service Assurance to
18 conduct an analysis?

19 A I'm sorry, this is not part of my testimony.

20 Q No, it's not part of your testimony, but I asked you
21 if you --

22 A Just bear with me.

23 Q Okay.

24 A It's not part of your testimony, it's part of those
25 boxes over there. We have three of them. That's confidential.

1 Q And I've asked you --

2 A Do you want me to talk about this?

3 CHAIRMAN JACOBS: Excuse me. We have to remember
4 again. Now, let's let counsel conduct the inquiry and then if
5 you have an explanation or a question back we'll do that.

6 Ms. Caswell.

7 BY MS. CASWELL:

8 Q Mr. Poucher, all I asked is whether you knew if the
9 Florida Region had asked the Service Assurance team to
10 undertake its review or not, and it was your assumption that
11 they had not asked. The reason I'm showing you this letter
12 which was produced in discovery was to try and establish that
13 they had asked.

14 A I can tell you the answer to the question, but that
15 -- this document is confidential. If you want me to answer,
16 that's fine.

17 Q It's not confidential if I'm disclosing it publicly
18 right now.

19 A Fine, okay. Yes, the letter says that the Florida
20 Region asked the Service Assurance to conduct an analysis of
21 outside plant activity in May of 1997.

22 Q Right. And the team came up with a number of
23 recommendations, correct?

24 A And the Services Assurance team came up with an
25 extensive list of things that needed to be done in Florida.

FLORIDA PUBLIC SERVICE COMMISSION

1 Q Right. And one of those things concerned -- one of
2 those recommendations concerned bonding and grounding?

3 A Yes. You asked me a question, if there was another
4 document?

5 Q Right, that indicated there was a problem that
6 Verizon had ignored.

7 A Right. And back over on Page 5 is the finding that
8 bonding and grounding specifications are not understood at the
9 technician level; in other words, if the technicians don't
10 understand what is required to bond and ground your plant, then
11 you've got a problem in your program, and that was brought up
12 in 1998. This is January the 28th of 1998, and it was still
13 there in July of 1999, but it is still an issue.

14 Q And again, I'm going to ask wouldn't you expect
15 bonding and grounding to be a recurring issue in an area that
16 was fraught by lightning, such as Tampa Bay?

17 A And my testimony was no. My testimony was that you
18 should be the experts on bonding and grounding and, obviously,
19 by these documents you are not.

20 Q Is there -- this document -- doesn't this document
21 indicate that the company had identified a potential problem
22 and was addressing it?

23 A No, it does not. That's the point. The company
24 identified these problems, your Service Assurance task force
25 identified four pages of problems. We're only talking about

1 one of them, but we should talk about all of the rest of them.
2 And what the problem is, is that these folks had -- you got
3 problems in Florida. Peter Daks said we've got problems in
4 Florida, we need more money, and nothing was done, and that's
5 the problem.

6 Q Let's stick to this document for now. Where in this
7 document does it say that nothing was done in response to the
8 bonding and grounding recommendations?

9 A Well, this is a recommendation. What I am saying is
10 I'm drawing a line between this recommendation and the July
11 13th chart that I just showed you. This is a chart that shared
12 at the top levels of management within all of Verizon,
13 headquarters as well as locally in Florida, and on July 13th,
14 1999, still had a problem.

15 Q So, is it your --

16 A It was not dealt with. My assumption is you don't
17 deal with these problems, because you don't have enough money
18 in the budget to do it.

19 Q So, is it your assumption that nothing was done on
20 bonding and grounding in response to this letter all the time
21 until we see the 1999 document, nothing at all was done on
22 bonding and grounding; the company identified the issue,
23 correct?

24 A No, that's not my testimony.

25 Q Okay.

1 A My testimony is that as of July 1999, the problem
2 still had not been dealt with, and I don't know exactly what
3 you did between that time, but it obviously wasn't enough.

4 COMMISSIONER JABER: Mr. Poucher?

5 THE WITNESS: Yes.

6 COMMISSIONER JABER: I need to make sure I understand
7 this letter and your testimony. I read this letter, and it
8 appears to me that it actually supports the position you take,
9 which is that the company knew it had a problem. For example,
10 the next to the last paragraph on the second page, "At this
11 point, establishing the dedicated preventative maintenance
12 team and executing the TRP is the strongest recommendation we
13 can make at this time."

14 THE WITNESS: Correct.

15 COMMISSIONER JABER: Let me tell you my
16 understanding, and then I'll ask you a question. This appears
17 to me to be an acknowledgment by the company that they needed
18 to dedicate a workforce to a preventative maintenance program.
19 So, my question to you is you don't disagree that this letter
20 does that, that by this letter the company acknowledges it has
21 a problem?

22 THE WITNESS: Oh, yes, definitely. What this letter
23 does is tell the people in Verizon all of the problems that
24 they have in outside plant, and the absence of a dedicated work
25 team for preventative maintenance is one of the key items. And

1 most every one of these recommendations, there's four pages of
2 them, involves budgetary issues. You don't implement a program
3 without an adequate budget.

4 COMMISSIONER JABER: All right. So, you acknowledge
5 in January -- at least on January 29th, 1998, the company
6 acknowledged it needed to devote more to a preventative
7 maintenance program?

8 THE WITNESS: Definitely.

9 COMMISSIONER JABER: But it's your testimony that the
10 company did not do anything to dedicate resources to a
11 preventative maintenance program?

12 THE WITNESS: That's correct.

13 COMMISSIONER JABER: All right. Now, on what do you
14 base that position? How do you know they didn't?

15 THE WITNESS: Well, the best document of all is the
16 one that I just showed you that detailed the program that
17 Verizon was implementing under Mr. Ferrell's leadership in July
18 of 1999 that discusses exactly the same things that were in
19 this January 1998 letter.

20 COMMISSIONER JABER: And that document being the
21 Florida Region?

22 THE WITNESS: Yes, yes. And there's a tremendous
23 parallel. That wasn't a brand new program. Those ideas came
24 from this January 1988 document. Peter Daks wrote another
25 document that is also in our testimony that outlines virtually

1 the same elements, the need for a dedicated workforce.

2 COMMISSIONER JABER: All right. Now, I'm looking at
3 the Florida Region document. I just want to make sure I'm
4 following your position.

5 THE WITNESS: Okay.

6 COMMISSIONER JABER: Where on that document should I
7 be looking for support that the company didn't do anything to
8 devote resources to a preventative maintenance program?

9 THE WITNESS: The point that we make in this
10 testimony is that the items that are included in that July
11 recommendation are exactly the same things that you should do
12 and should have been doing all along to provide good service.
13 And those shortcomings were pointed out by Peter Daks in
14 several letters, they were confirmed by this document that
15 we're looking at here today, and they are reinforced by the
16 fact that this is the way you run a telephone company, this is
17 the way you operate it.

18 COMMISSIONER JABER: So, your point is the fact that
19 they were still making the same recommendations when the
20 Florida Region plan came out indicates that they had not
21 devoted resources or money to a program. You're making the
22 assumption that because they were repeating the recommendations
23 nothing had been done?

24 THE WITNESS: Correct.

25 COMMISSIONER DEASON: Mr. Poucher, let me ask you a

1 question on this document. I'm looking at the second page, the
2 third paragraph. There's a reference to FAPs. Do you know
3 what that stands for?

4 THE WITNESS: This is on the second page, Page 2 of
5 my testimony?

6 COMMISSIONER DEASON: No, no. This is Page 2 of the
7 document which you were just presented. I understand it's not
8 part of your testimony and maybe you're not familiar with that
9 term. I was just asking if you were what the term means. It's
10 the first sentence of the third paragraph.

11 THE WITNESS: Mr. Diamond will give you the exact --
12 he knows all the terminology.

13 COMMISSIONER DEASON: Okay, I'll ask him.

14 THE WITNESS: But what they're basically talking
15 about is projects that were identified through TAC Focus which
16 is their analysis program on preventive maintenance. And what
17 they're saying in this recommendation is that those projects
18 should be worked as soon as possible. And there's a whole lot
19 of other recommendations that are included in this letter that
20 bear out the fact that they didn't have a dedicated team, they
21 were not paying attention to those projects when they came out,
22 and they did not have enough money to cut them over to the new
23 facilities. That delayed the fix. And these are the problems
24 that they saw after an extensive analysis of the outside plant
25 maintenance program.

1 BY MS. CASWELL:

2 Q Mr. Poucher, I think, you've said that the
3 recommendations here had significant budgetary implications; is
4 that right?

5 A Yes.

6 Q Meaning -- let me -- do you see anything in this
7 document about how much it would cost to implement the
8 recommendations?

9 A No, there's no price tag on this.

10 Q You don't have any idea how much it would cost, do
11 you?

12 A No, I do not.

13 Q And to the extent that certain of these
14 recommendations would cost something to implement, is there any
15 indication that there was insufficient money available to do
16 so?

17 A I think, if I went through it carefully, I could find
18 a lot.

19 Q Can you do that now?

20 A But right off the top of my head, one of the problems
21 that they had was in one exchange and, I think, it was Winter
22 Haven, they had put up outside plant cable to replace the old
23 cable, but they didn't have enough funding for the cutover, so
24 here's a brand new cable sitting up here in the air, but they
25 couldn't install it, put it to work, fix the problem, because

1 they didn't have enough money to do the cutover. That's a
2 perfect example, I think.

3 Q Okay. Let's look at that cable issue. It's on Page
4 3. There's findings in the Winter Haven area, there was a
5 situation where the --

6 A Yeah.

7 Q Now, look under recommendations. "All work orders
8 associated with working cable and/or that have "M" or "X" time
9 involved need to be reviewed and accepted by the local manager
10 before closing." Doesn't that seem to indicate that someone
11 did not do their job in submitting the request in getting it
12 approved for funding rather than there was no funding
13 available? What makes you think there was no funding
14 available?

15 A Because of the first sentence. It says, "The cable
16 was placed over a year ago but has not been cut around due to
17 no "M" or "X," that's maintenance money.

18 Q Uh-huh. And do you think --

19 A So, I would assume that they didn't have enough money
20 there.

21 Q But you're assuming that they didn't have enough
22 money, rather than assuming that they just hadn't processed the
23 order to get the money, correct?

24 A I'll stand on what I said.

25 Q But it's an assumption, correct?

1 A Sure.

2 Q In going back to my question about any indication in
3 this document there was insufficient money available to
4 implement the recommendations, do you see anything else in here
5 that says these are programs that need to be done, but you're
6 not going to get the money?

7 A The question was these are programs that need to be
8 done, but you're not going to get the money to do them; is
9 that --

10 Q Is there any indication in the document that there
11 would not be funding for the recommendations set forth here?

12 A No, not at all. This is a recommendation of things
13 that they should be doing.

14 Q Right.

15 A It wasn't a decision on the budget.

16 Q Right. And let's look at the last paragraph. It
17 says, "The recommendations made from the second visit are
18 outlined in the trouble reduction program. We are continuing
19 to provide staff assistance to help resolve some of these
20 issues," and that would be staff assistance from headquarters;
21 would it not?

22 A Correct.

23 Q "However, I believe, many of these must be addressed
24 and resolved by the Region management team." Does that seem to
25 indicate to you that the Region had to take some initiative to

1 implement the recommendations?

2 A Yes.

3 Q And do you know for a fact that these recommendations
4 were never implemented?

5 A Only from the closeness of the recommendations, the
6 similarity between those recommendations and the
7 recommendations of the July 13th, 1999 group. Had these things
8 been done properly, then the July 1999 document would never
9 have been -- would not have been needed.

10 Q So, it's an assumption on your part that these things
11 were not done. You have no documents saying that these things
12 could not be implemented because of a lack of funding?

13 A No. I think, it's a good assumption, though.

14 Q Okay. And let's look at the document you say proves
15 that nothing was done. Is that REP-40? Is that the basis for
16 your assumption that nothing was done in response to the 1997,
17 1998 study?

18 A Part of it.

19 Q I'm sorry, did you say part of it?

20 A Mm-hmm. Okay. I'm on which page?

21 Q Is it possible that bonding and grounding activities
22 could have been undertaken in response to this document, the
23 earlier document, the recommendations? Is it possible?

24 A All right. Did you ask me whether this is a result
25 of the January 1998 --

1 Q Okay, my question is are you assuming that there was
2 nothing done on bonding and grounding from the time of this
3 1998 document to the time of this 1999 document?

4 A I'm assuming --

5 Q You're assuming.

6 A -- that bonding and grounding was a problem in 1998,
7 January, and that resulted from 1997 visits to Florida. And
8 I'm also noting that in July of 1999 the problem's still here
9 clearly, so I would assume it wasn't taken care of.

10 Q Do you think possibly it was a recurring problem
11 rather than something that could be fixed once and forevermore
12 didn't need anymore attention?

13 A I think, the bonding and grounding fix, in terms of
14 training the employees, is something that can be done, should
15 be done. I think, Mr. Ferrell had it done.

16 Q And do you have any proof, again, that no training
17 was done in response to the 1998 letter?

18 A No, I have no proof.

19 Q Okay. And do you have any proof that any of the
20 other measures they recommended were not implemented?

21 A You're talking about the --

22 Q I'm talking about the recommendations from 1997 and
23 1998, which is REP-35.

24 A Yes.

25 Q I'm asking you if you have any proof or is it just

1 assumptions that these things weren't done?

2 A Well, probably the biggest one was the isolated
3 preventive maintenance team outside the regular workforce to
4 work full time on preventive maintenance, that was requested in
5 that document. Peter Daks asked for the same thing in late
6 1997 in his recommendations to headquarters. And here, once
7 again, in 1999 Mr. Ferrell is talking about the need to have a
8 dedicated team to do preventive maintenance. I've got to
9 assume that nothing happened.

10 Q Do you know if it was within Mr. Daks' control to
11 implement that recommendation or whether it depended on funding
12 from headquarters?

13 A In my opinion, it depended on funding from
14 headquarters, which is why nothing was done.

15 Q And what is the basis for that opinion, that there
16 was no funding to implement the recommendation?

17 A Just my opinion.

18 Q Is that the only instance where you contend that the
19 same recommendations were made, that in the bonding and
20 grounding, and not implemented?

21 A You're talking about the recommendations from the
22 July or the 13th '99? Well, let's just go down the July 13th
23 charts; how about that?

24 Q What is the July 13th chart?

25 A The ones used in the Region operations review.

1 Q What document are you referring to?

2 A REP-40, Page 1.

3 Q I guess, my question about this document, moving to
4 this document, is there any evidence that these things were not
5 implemented?

6 A Okay. Here's the problems that existed in 1999:
7 High trouble volumes. That's an exact parallel with Peter
8 Daks' request that Mr. Beck read to you to company headquarters
9 about the fact that we've got to do something about the outside
10 plant in the old areas like Tampa-St. Pete that cause
11 tremendous acceleration of trouble reports during bad weather.
12 That's high trouble volumes. The problem was brought to
13 Verizon top management at company headquarters, in 1997 by
14 Peter Daks, and it's still a problem in 1999. I assume that
15 that problem was not taken care of.

16 The next one is poor quality and previous
17 construction and repair. You will not find those words in some
18 of the previous documents, but you find basically the basis for
19 it, that the contract labor that the company had hired to make
20 up the slack did not have the standards of quality that
21 full-time company employees had and, therefore, they built
22 outside plant that was poor quality. We've already talked
23 about bonding and grounding enough, I hope. They also had
24 problems with their digital loop carriers. That had been
25 identified back in January of '98 in that document.

1 Going to Page 2, the temporary closure attack team
2 was not mentioned in the January 1998 document, but that was
3 the kind of thing that I saw when I went down and visited
4 Tampa, and it's a severe problem representative of an absence
5 or a lack of sufficient personnel to handle the load, and it's
6 one of the worse things that you can have in your outside
7 plant.

8 In July of 1999, the company said it needed an
9 aggressive TAC program. In December of '97, Peter Daks said
10 exactly the same thing, that the TAC program was not sufficient
11 to handle the problem. Is that enough?

12 Q Do you believe that some or all of these things were
13 within the control of local management to implement or was it a
14 matter of headquarters giving the Region funding to implement
15 them?

16 A I think, both. I think, the local management would
17 be the implementers, but the company headquarters is the one
18 that has to identify the budget dollars, set them aside, and
19 make it happen.

20 Q Do you see any -- on this document REP-40 -- do you
21 see any mention of cost of implementing these things?

22 A No. I said there's no mention of cost.

23 Q Right. And you're assuming that there were no budget
24 dollars available earlier to implement them. I think, we've
25 already established that.

1 A Yes.

2 Q And let's look at REP-8, which is another bonding and
3 grounding document.

4 COMMISSIONER DEASON: Ms. Caswell, are you leaving
5 REP-35?

6 MS. CASWELL: Yes, I'm leaving REP-35.

7 COMMISSIONER DEASON: Okay, I have a question about
8 that.

9 Mr. Poucher, as I understand REP-35, there is -- at
10 least on Page 1, there is a discussion of a May 1997 review and
11 then that's followed by a January 199-- I'm sorry -- there's a
12 January 1997 review; is that correct? That's on Page 4.

13 THE WITNESS: I think that they --

14 COMMISSIONER DEASON: Should that be January 1998?

15 THE WITNESS: January '98. I think, they went back
16 just before they released this letter.

17 COMMISSIONER DEASON: So, you think that's a misprint
18 there where it says January '97, it should be January '98? I'm
19 looking at Page 4.

20 THE WITNESS: When I read it, it was my assumption
21 that that was January 1998.

22 COMMISSIONER DEASON: Okay. Well, then, going back
23 to Page 1 under May 1997 review, there's a recommendation. The
24 first one is concerning outside plant trouble and then here
25 again there's this terminology, FAPs. It says, "FAPs

1 identified through TAC Focus should be worked ASAP," and I
2 assume that means as soon as possible, so this was in May there
3 was a recommendation to do something as soon as possible.

4 And if we go over to the letter, which is dated
5 January 28th, which Ms. Caswell handed out to you on the second
6 page, the third paragraph, this is what I referred to you
7 earlier, there's the sentence that reads, "One of the major
8 issues facing the Region is low performance in the area of
9 completing maintenance-related FAPs," whatever FAPs is.

10 I guess, my question is it appears there was
11 something recommended to be done as soon as possible in May and
12 then in January is still a problem and, apparently, it was not
13 addressed. Did you -- in your review, did you uncover anything
14 dealing with FAPs, what they are, and why there was a
15 recommendation made to do something as soon as possible and why
16 it was not done?

17 THE WITNESS: Well, first of all, these are projects
18 to replace bad plant. And the quicker they get them out --

19 COMMISSIONER DEASON: Projects to do what?

20 THE WITNESS: To replace bad plant, bad cables that
21 have a high incidence of trouble reports, and they're
22 identified by a computer program that analyzes all the trouble
23 reports, isolates them to the proper cables. Obviously, it
24 serves Verizon's interest once they find out they have a
25 problem to expedite the fix of that problem, and that's what

1 the recommendation in May was saying.

2 Also, in the May recommendation, there was also a
3 note that there was frustration in the field on Page 4 about
4 the lack of action on identified FAPs and other plant problems.
5 And I don't know what those acronyms mean, but those -- the
6 frustration in the field is that the problems were identified,
7 they knew they were there and they weren't being fixed as soon
8 as possible, which is the May '97 review.

9 And in January of '98, I think, they perceived the
10 same thing. The point that I would make is that this program
11 is the same program that we were talking about that was up at
12 24 million in 1990 and was down to 4 million in 199-- mid '90s.
13 And if you don't have enough problems in your programs to fix
14 these problems, then this is what you're going to see.

15 COMMISSIONER DEASON: Okay, thank you.

16 Ms. Caswell, is Mr. Diamond the correct person to
17 address FAPs and what they are and how they fit into this
18 formula?

19 MS. CASWELL: Yeah, we can do that.

20 COMMISSIONER DEASON: I want to try to remember to
21 ask, but you may want to remind him or you may want to have him
22 describe what FAPs are. I'd appreciate it.

23 MS. CASWELL: Okay.

24 BY MS. CASWELL:

25 Q Mr. Poucher, let's look at your REP-8 on your Direct

1 Testimony. It's a lightning analysis report. And what this
2 looks like is an analysis of cross boxes that had had trouble
3 reports caused by lightning over 15 months in 1997 to 1998; is
4 that right?

5 A Okay. Keep going.

6 Q And the company identified 327 total that appeared to
7 have lightning damage, and that would be some of the inland and
8 coastal boxes, correct?

9 A Correct.

10 Q There's no total number of cross boxes in here, is
11 there?

12 A No.

13 Q But from Mr. Diamond's testimony, do you recall that
14 it was 6,500? So, only 327 out of 6,500 were identified as
15 potentially having bonding and grounding problems, correct?

16 A I'd accept that.

17 Q But you say you were shocked that 61% of the cross
18 boxes studied had inadequate grounding, but the 61% isn't 61%
19 of 6,500, is it?

20 A No. This is -- the percentage of ones that they had
21 identified as problem cross boxes, they were not taken care of.

22 Q So, it would be the 61% is the percentage of the 57
23 that actually did have bonding and grounding problems after the
24 company analyzed them, correct?

25 A I think, that's correct.

1 Q Do you think that's an inordinately high number of
2 cross boxes with bonding and grounding problems, considering
3 the lightning in the area?

4 A Yes.

5 Q And what do you base that opinion on?

6 A Any cross boxes that have bonding and grounding
7 problems are a real problem in your outside plant. We're not
8 talking about one customer here. We're talking about hundreds
9 of customers that are terminated in a cross box. Every cross
10 box needs to be bonded and grounded to ground so they won't
11 suffer lightning damage.

12 Q Right. And even if a cross box is bonded and
13 grounded once, that might not necessarily last forever,
14 correct, you'd have to go in and do it again?

15 A I would accept that.

16 Q And does this analysis show that Verizon was actively
17 trying to identify bonding and grounding problems or that it
18 was ignoring them?

19 A This document shows that they had identified
20 problems. This document shows that they had not taken care of
21 them.

22 Q Does this document show that they were taking care of
23 it, they were on their way to correcting the problems?

24 A I don't know.

25 Q Well, we've -- we've already established that they

1 identified problems, potential problems, in some of the boxes,
2 correct?

3 A Correct.

4 Q And we have a cross box's complete line as of
5 6-11-98, correct?

6 A Yes.

7 Q So, it looks like they were taking action to remedy
8 the problems they found, correct?

9 A Yes; as slow as they were, yes, they were.

10 Q And this would be as of June 1998, correct?

11 A June 11th, 1998.

12 Q And is there any indication that this project was not
13 completed?

14 A No.

15 Q And is there any indication that funding was
16 inadequate for the project?

17 A Not in this document.

18 Q Is there any indication anywhere that funding was
19 inadequate for bonding and grounding?

20 A The fact that the company didn't have an effective
21 bonding and grounding program says that there was not any
22 significant funding to deal with that problem. That's the
23 point of our testimony.

24 Q And again, that's an assumption on your part rather
25 than any document that says you're not getting money for

1 bonding and grounding, correct?

2 A Correct.

3 Q As part of its regular service audits, does the
4 Commission Staff review bonding and grounding?

5 A Yes, they do.

6 Q Let's look at an audit page from 1998.

7 A Okay.

8 Q And it looks like the Commission studies two things,
9 percent of older loops with adequate ground and percent of new
10 installations. And what was the percentage in both cases of
11 installations with adequate ground?

12 A 100%.

13 Q So, the Commission didn't identify any bonding and
14 grounding problem in 1998, did it?

15 A Well, they didn't look at cross boxes. Let me tell
16 you how bonding and grounding is done by the Commission.

17 Q I'm sorry, can you answer yes or no and then go on?
18 Did the Commission identify a problem with bonding and
19 grounding?

20 A Well, we were talking about bonding and grounding of
21 cross boxes. Are we on that issue or are we on something else
22 here?

23 Q Yeah. I'm looking at the ground efficiency schedule.
24 Did the Commission find any adequate grounding in the audit in
25 1998?

1 A No, the Commission did not find any bonding and
2 grounding deficiencies when it visited the network terminal at
3 customer's premises to measure the ground. And this is the
4 program that the Commission does. They go to a specific
5 location where the network is terminated at the customer's
6 premises and measure that loop to determine whether there's
7 inadequate ground. This has nothing to do with cross boxes or
8 inadequate grounding in cross boxes, and the Commission does
9 not look at that.

10 Q But it does have to do with the grounding, correct?
11 The Commission is assessing grounding in this document as it
12 does in every audit, correct?

13 A Correct, at the customer premises.

14 Q Right. Let's look back at your Exhibit REP-9, which
15 is entitled, "TAC Facts." And, I think, you already testified
16 that TAC was one of Verizon's established preventive
17 maintenance programs, correct?

18 A Yes.

19 Q And it looks from this document like, as part of the
20 program, the company was analyzing trouble reports, and that's
21 in the first line, correct?

22 A Correct.

23 Q And the company had met 200% of its 1998 goal to
24 analyze those reports, right?

25 A Yes.

1 Q So, it was doing better than it anticipated in terms
2 of identifying potential problems, correct?

3 A Correct.

4 Q And of the 28,000 reports analyzed, 18,000 had been
5 funded already, correct?

6 A That's what it says, yes.

7 Q And there were another 9,623 pending funding, right?

8 A Correct.

9 Q So, adding up these numbers, it looks like all of the
10 problems found were funded, right?

11 A Correct.

12 Q So, the document proves that the company was working
13 to identify potential problems with funding them, not ignoring
14 them, doesn't it?

15 A Oh, I think, the company was doing the best that it
16 could do in Florida to try to identify its bad plant and fix
17 it. That's not our case here.

18 Q And that there was adequate funding for the problems
19 identified, as reflected in this document, correct?

20 A Yes, but I think you need to read Line 3 of that to
21 fully understand that they were only dealing with 1% of the
22 outside plant, so we're talking about a very small fraction of
23 the outside plant that exists in Verizon territory in Florida.

24 Q Do you know what PMI means?

25 A I believe that's one of your internal organizations.

1 I do not know what it is.

2 Q And do you think this statement means that Verizon
3 had only looked at 1% of its outside plant?

4 A Terminated complements.

5 Q What does terminated complements mean?

6 A Generally, 100-pair complement within a cable that
7 would probably be larger than that, 600, 1,200.

8 Q And do you believe that the company -- I don't know
9 if that's true, Mr. Poucher, but do you believe that the
10 company had stopped addressing its trouble at this point, it
11 was not going to look at any other parts of the network?

12 A What I believe, Kim, is that the company maintenance
13 program was addressing just the small tip of the problems of
14 the -- in the outside plant and Verizon, and they were dealing
15 with only 1%. This is a company chart. This is not our chart.
16 And they're pointing out that they've only addressed 1% of the
17 total complements in the company. And I would remind you that
18 this is not my chart. Down at the bottom they're telling their
19 higher management deterioration of outside plant never stops.

20 Q Can you --

21 A And the assumption I would take from that is that
22 you've got to keep spending money. And if you don't stay ahead
23 of it, it's going to get ahead of you.

24 COMMISSIONER DEASON: Mr. Poucher, do you know what
25 is meant by the second line there when they speak in terms of

1 trouble reports funded. How do you fund a trouble report?

2 THE WITNESS: As I said, this is a computer program
3 that analyzes all of the trouble reports, and then they're
4 batched against the company records regarding serving cable and
5 serving facilities, and what they do is they identify within
6 specific complements of cables the highest incidence of
7 trouble, and they go after those, and this program identifies
8 it.

9 Then, they work up a project, that's the FAP, and
10 then it goes to the outside plant and they string in a new
11 cable, and then somebody has to cut it over, and that's a long
12 involved and difficult process, and it requires a lot of
13 funding to do it. It's a long-term program, and that's why
14 it's called preventive maintenance.

15 COMMISSIONER DEASON: So, do you interpret that,
16 then, that an effort was made to fund some type of plan
17 improvement or correction or replacement which would resolve
18 18,408 trouble reports from occurring again? Is that the way
19 you interpret that?

20 THE WITNESS: Correct. And you don't know how much
21 higher the trouble report might have gone, but they identify
22 them by the number of trouble reports in the past. And, of
23 course, the objective here is to fix your outside plant cable
24 before you receive a trouble report about it, because by then
25 you only have 24 hours.

1 But if you get out in advance, and if you fix the bad
2 cable, then that takes the edge off those trouble reports when
3 it does rain. And that's what we've been telling the
4 Commission all along here is that the failure to spend enough
5 dollars to deal with those problems before they became a
6 trouble report is what caused Verizon to violate your rules.

7 COMMISSIONER DEASON: Do you have any information as
8 to the number of trouble reports the 18,408 compares to?

9 THE WITNESS: There were 18,000 trouble reports in
10 those complements that they were funding. In other words --

11 COMMISSIONER DEASON: Well, what were the total
12 amount of trouble reports? Do you have any idea?

13 THE WITNESS: Don't know. All that this program did
14 was give them a total number of trouble reports that they were
15 going to get rid of so that they didn't come back.

16 COMMISSIONER DEASON: Okay, thank you.

17 CHAIRMAN JACOBS: Ms. Caswell, is this a point where
18 we can break?

19 MS. CASWELL: Sure. Okay, we'll break for lunch,
20 come back at 1:30.

21 (Lunch recess taken.)

22 - - - - -

23 (Transcript continues in sequence in Volume 2.)

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1 STATE OF FLORIDA)
2 : CERTIFICATE OF REPORTER
3 COUNTY OF LEON)
4

5 I, KORETTA E. STANFORD, RPR, Official Commission
6 Reporter, do hereby certify that the foregoing proceeding was
heard at the time and place herein stated.

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

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

13 DATED THIS 28TH DAY OF JUNE, 2001.

14
15 KORETTA E. STANFORD, RPR
FPSC Official Commissioner Reporter
16 (850) 413-6734
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FLORIDA PUBLIC SERVICE COMMISSION

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STATE OF FLORIDA)
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FLORIDA PUBLIC SERVICE COMMISSION