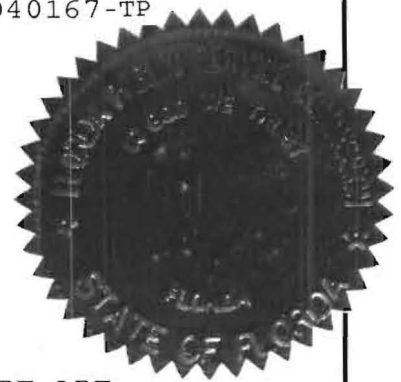


BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 040167-TP

In the Matter of:

PROPOSED ADOPTION OF RULES 25-4.082,  
F.A.C., NUMBER PORTABILITY, AND  
25-4.083, F.A.C., PREFERRED CARRIER  
FREEZE; AND PROPOSED AMENDMENT OF  
RULES 25-4.003, F.A.C., DEFINITIONS.



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PROCEEDINGS:                   AGENDA CONFERENCE  
ITEM NO. 3

BEFORE:                           CHAIRMAN BRAULIO L. BAEZ  
COMMISSIONER J. TERRY DEASON  
COMMISSIONER LILA A. JABER  
COMMISSIONER RUDOLPH "RUDY" BRADLEY  
COMMISSIONER CHARLES M. DAVIDSON

DATE:                             April 20, 2004

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

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FLORIDA PUBLIC SERVICE COMMISSION 06091 MAY 28

FPSC-COMMISSION CLERK

1 PARTICIPATING:

2 NANCY WHITE, ESQUIRE, and MS. NANCY H. SIMS  
3 appearing on behalf of BellSouth Telecommunications, Inc.

4 RICHARD CHAPKIS, ESQUIRE and DAVID CHRISTIAN,  
5 appearing on behalf of Verizon, Florida, Inc.

6 SUSAN S.MASTERTON, ESQUIRE, and MS. SANDRA A.  
7 KHAZRAEE, appearing on behalf of Sprint Communications Company  
8 Limited Partnership.

9 TRACY HATCH, ESQUIRE, appearing on behalf of  
10 AT&T Communications of the Southern States, Inc.,

11 MATTHEW FEIL, ESQUIRE, appearing on behalf of  
12 FDN Communications.

13 DONNA C. MCNULTY, appearing on behalf of MCI  
14 WorldCom Communications, Inc.

15 SAMANTHA CIBULA, ESQUIRE, FPSC General Counsel's  
16 appearing on behalf of Commission Staff.

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## P R O C E E D I N G S

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CHAIRMAN BAEZ: And we are on Item 3.

MS. CIBULA: Commissioners, Item Number 3 is staff's recommendation to propose the adoption of Rules 25-4.082 and 25-4.083 and propose the amendment of Rules 25-4.003, 25-24.490, and 25-24.845 as set forth in Attachment A of staff's recommendation. There are interested persons here who would like to address the Commission on this item, and staff is prepared to answer any questions the Commission might have.

CHAIRMAN BAEZ: Thank you, Ms. Cibula. I guess we can start left to right. My left, your right. Stage left I guess they call it. Ms. White.

MS. WHITE: Thank you, Chairman. Nancy White and Nancy Sims for BellSouth Telecommunications, Inc. We are really here only to answer any questions you may have. There is one section, the definition of temporary disconnect, that has a specific time limit on it for how long a temporary disconnect would last. We would prefer that there not be a time limit on there so that the companies would have flexibility, but we don't want to make a federal case out of it, so to speak.

COMMISSIONER DAVIDSON: That is surprising.

MS. WHITE: I know. Isn't it, though? I thought it would be a refreshing change.

CHAIRMAN BAEZ: That begs the question, can you make

1 a federal case out of it?

2 MS. WHITE: Oh, I don't know. We could try.

3 CHAIRMAN BAEZ: Fair enough.

4 MS. WHITE: That is the only part that we had some  
5 concerns with. And as I said, we would rather see the  
6 flexibility of having no time limit in the definition, but  
7 other than that we are just here to answer questions.

8 CHAIRMAN BAEZ: Thank you, Ms. White. Mr. Chapkis.

9 MR. CHAPKIS: Richard Chapkis and David Christian on  
10 behalf of Verizon. Verizon, like BellSouth, supports the  
11 proposed rules and urges the Commission to adopt staff's  
12 proposed recommendation. Verizon, like BellSouth, has one  
13 specific concern, and that is with the preferred carrier freeze  
14 rule, and it is specifically Subsection 5. That says -- the  
15 rule as currently written says, a local provider shall not  
16 solicit, market, or induce subscribers to request a PC freeze.  
17 A local provider is not prohibited, however, from informing a  
18 subscriber who contacts the local provider with concerns about  
19 slamming about the availability of a PC freeze. And Verizon  
20 would like the ability to inform a subscriber about the  
21 availability of a PC freeze when they first contact the company  
22 for service. And that is the addition that we would like to  
23 make, and specifically the language we would like to insert  
24 would be a local provider is not prohibited, however, from  
25 informing a subscriber who contacts a local provider -- and

1 here is the insertion we would make -- for the initiation of  
2 service or with concerns about slamming about the availability  
3 of a PC freeze. And other than that we are just here to answer  
4 any questions that you all may have.

5 CHAIRMAN BAEZ: Thank you. Ms. Masterton.

6 MS. MASTERTON: Susan Masterton with Sprint, and also  
7 with me is Sandy Khazraee. Sprint supports the rules  
8 recommended by staff as they address the PC freezes, but we do  
9 have a concern with the number portability rules, the provision  
10 that requires companies to port numbers that are in a temporary  
11 disconnect status. We don't have a concern about porting  
12 numbers that are past due. We just have a concern that it  
13 would address the situation when a number was already  
14 temporarily disconnected. When a number is disconnected, it  
15 would have to be an undisputed amount.

16 By the Commission's own rules, the companies are not  
17 allowed to just disconnect a number that has a disputed past  
18 due balance. So the customer clearly owes the amount of money,  
19 there is a certain amount of time that has elapsed between the  
20 time that the debt was incurred and when the number is  
21 ultimately disconnected. We just think it is bad public policy  
22 to force the companies to facilitate a customer basically  
23 escaping their responsibility to pay their bills.

24 The Commission is required to adopt rules that are  
25 consistent with the FCC rules, and we believe that just

1 addressing past due balances and not going so far as to  
2 specifically address temporary disconnect is consistent with  
3 the FCC rules. As far as we are aware the FCC rules only  
4 address past due balances and have not yet specifically  
5 addressed temporary disconnects.

6 We have some language that we would propose that  
7 essentially is eliminating all of the references to temporary  
8 disconnect. And we can pass out -- we prepared a draft that  
9 Sandy can pass out to you, but essentially we would delete the  
10 section that provides a definition for temporary disconnect in  
11 25-4.003. I think the amendments to that rule would go away  
12 because that is the only change. And then in 25-4.082, in  
13 Subsection 2, we would just strike the language, "or a number  
14 in temporary disconnect status." And in Subsection 3, we would  
15 strike the language that starts at, "or beginning six months  
16 after the effective date through temporary disconnect," and  
17 insert in there, "regardless of whether a balance is owed."

18 One of the reasons that Sprint has a concern with  
19 this is if in fact this rule is adopted, we will have to  
20 change, modify our systems in order to be able to do this  
21 because currently they can't. And it will take us  
22 approximately 18 months to make that modification at a cost of  
23 over \$400,000. And while we think competition is an important  
24 goal, we think this is going just one step too far to  
25 facilitate irresponsible behavior on the part of consumers.

1 CHAIRMAN BAEZ: Thank you, Ms. Masterton. Mr. Hatch.

2 MR. HATCH: Tracy Hatch appearing on behalf of AT&T  
3 Communications of the Southern States, LLC. In general, we  
4 support the full text of the staff's proposed rules. I would  
5 request that there be one addition to the rules. Not a change  
6 to existing language, but an addition to the verbiage that is  
7 in 25-4.083, a new Subsection 13.

8 As you know, we have been through this process at  
9 great length over the last couple of years. In the last draft  
10 of the staff's rule that came out last fall, prior to the  
11 filing of the staff's recommendation, there was a Subsection 13  
12 included in the draft that read, "Local providers shall ensure  
13 that the local service request will not be rejected while the  
14 local freeze lift request is in progress."

15 That is an important provision to us because it  
16 creates a certain amount of problems for us when we call and we  
17 are recruiting customers and the customer has a PC freeze in  
18 place. And the way you lift that typically in the CLEC world  
19 is that you make a three-way call with the customer, AT&T's  
20 representative, and in most cases the ILEC because they are the  
21 ones that maintain and control the freeze and they are  
22 providing the current local service. And so only the ILEC or  
23 the current local service provider that maintains the freeze  
24 can lift the freeze with the consent or the acknowledgment of  
25 the customer.

1           And so what happens is we will call and have that  
2 done, and everything is supposedly okay. We will submit a  
3 local service request, but there is in some cases a time lag  
4 between when the call initiating the freeze lift has been made  
5 and a lag between when the freeze is actually lifted on the  
6 customer service record. So what happens is we think it is  
7 okay because we have gotten the freeze lifted. We submit the  
8 LSR, but because of that time lag it gets rejected. And so  
9 what that does is it affects our customer directly because  
10 their expectations can't be met. They are angry at us because  
11 we can't fulfill the service like we said we could and like we  
12 assumed we could. Because the PC freeze is supposedly lifted.

13           And so what we had requested was that that language  
14 be put into the rule so that it doesn't reject the local  
15 service request pending the PC freeze actually making it to the  
16 customer service record. So that it maintains the customer's  
17 expectations and our expectations and certainly doesn't affect  
18 the ILEC in any way. This is a serious problem. It is  
19 customer affecting and it makes customers mad, and that is the  
20 antithesis of good customer service, and I am certainly in the  
21 process of recruiting customers.

22           Now, with you respect to the comments that came in,  
23 as I understand it, the staff deleted that provision because of  
24 the SERCs that came in, and in particular because I believe it  
25 was Verizon expressed that it would cost them a lot of money,



1 in the order of \$900,000 to fix that. We are not quite sure  
2 why it would cost them that much money to do that. There is  
3 just no way to know. BellSouth either does that or soon will  
4 be doing that already, what we're requesting. Sprint has  
5 voiced no objection on the basis of cost to modifying their  
6 system, they have another objection that I will get to. It is  
7 our understanding as well that Qwest already does this in the  
8 western states, and so what we would request is this language  
9 be put back in in order to solve a real customer affecting  
10 problem.

11 Now, with respect to Sprint's objection to that  
12 language, they have taken a legal tack, and apparently they  
13 view it as violative of the FCC's PC freeze rules. I looked at  
14 their comments. I am not quite sure that I follow how it  
15 violates the PC freeze rules. The PC freeze rule at the  
16 federal level, as I understand their explanation, you can  
17 probably ask them, but as I understand it, federal law says  
18 that if there is a PC freeze, that they must reject it until  
19 the PC freeze is lifted. Well, I can understand that. That's  
20 fine, but I don't think that the federal rule speaks to the  
21 condition where the PC freeze is being lifted appropriately,  
22 but there is a time lag between when the freeze is reflected  
23 and the LSR comes in. I think it is a stretch to read that  
24 federal rule to create a violation in that narrow context. But  
25 you can ask Sprint if there is more detail. I just don't read

1 the rule the same way they did.

2 COMMISSIONER DEASON: Mr. Hatch, how much time lag  
3 are we talking about?

4 MR. HATCH: Unknown. In some cases, as far as I  
5 know, typically when we get the customer's authorization, then  
6 we would go ahead and submit the LSR. In terms of how long it  
7 takes the ILECs to delete the freeze, I don't know. I honestly  
8 don't know how long that process takes. We don't have that  
9 information. What we would like is that it not be rejected or  
10 at least have some notion of how long that PC freeze process is  
11 going to take so we can build it into our expectations and flow  
12 it through our local service request so that we can assume or  
13 be assured that it won't be rejected for that reason.

14 COMMISSIONER DEASON: Well, would a better  
15 alternative simply be to require that once a valid PC freeze  
16 lift, or whatever you want to call it, is submitted, it has got  
17 to be processed within a time certain?

18 MR. HATCH: That would be fine with us. We had  
19 kicked around various forms of language to accomplish that.  
20 The latest version that we had come up with, we tried to  
21 circulate that yesterday. It was probably too late in the day  
22 to get to everybody, but we can hand out copies of an  
23 alternative that we have proposed that you look at. But,  
24 basically what it says is that local providers have to lift the  
25 freeze within 24 hours. But it does make a distinction between

1 UNE-P carriers and resale carriers and facilities-based  
2 carriers, because -- without getting into what is a  
3 facilities-based carrier versus anything else or those  
4 definitions, it is a more complicated process when you have a  
5 CLEC because you have more parties involved. It is not just  
6 the ILEC. For example, if you have a customer of AT&T, MCI is  
7 marketing that customer. It is an AT&T customer, but if it is  
8 a UNE-P, then you have got to involve the ILEC as well as AT&T,  
9 as well as MCI, as well as the customer in that process to get  
10 everything lifted and everything transferred the correct way.

11 So there should be some allowance for different types  
12 of carrier scenarios, and that is what we're tried to  
13 accomplish in this language that we are just now handing out.  
14 But at some point there really should be some mechanism,  
15 whether it is you hold it in suspense, or the PC freeze has to  
16 be lifted within an identified period of time in order to  
17 resolve the local service rejection problem.

18 CHAIRMAN BAEZ: Mr. Hatch, a question. By your  
19 explanation, I am sensing that this time lag creates a  
20 situation where the PC freeze is not in effect, and yet service  
21 hasn't been switched, is that --

22 MR. HATCH: I guess that is correct. It creates a  
23 scenario where the local service has been -- or supposedly  
24 being switched, or capable of being switched but can't because  
25 of the time lag in lifting the freeze. We may be saying the

1 same thing, I'm not sure.

2 CHAIRMAN BAEZ: Maybe I'm looking at it the other way  
3 around to the extent -- and just follow me, if you can follow  
4 me for a moment. I have trouble following myself sometimes,  
5 but if you have a PC freeze lift within the 24 hours as you  
6 suggest, is it common that the local service request or the  
7 total service switch can take longer than 24 hours?

8 MR. HATCH: I think that is probably correct  
9 depending on the nature of the switch, for example.

10 CHAIRMAN BAEZ: Okay. So then there is a point in  
11 time in which lifting the PC freeze -- there is a point in time  
12 there where I guess the original intent of the PC freeze is not  
13 being served on the part of the customer. Is there a  
14 vulnerability there, strictly speaking, I mean.

15 MR. HATCH: I guess technically speaking it is a  
16 possibility. I would say it is probably -- as a probability it  
17 is extremely remote. I don't think you have the kind of  
18 slamming -- well, step back in history a little bit. The whole  
19 genesis for the slamming rules was not a local problem. It was  
20 a long distance problem. And it is the nature of how long  
21 distance service is switched.

22 It is very easy to mass and bulk transfer customers  
23 because you submit an electronic record of switched carrier to  
24 Carrier A to Carrier B for the following list of telephone  
25 numbers. It is very easy. It's handled electronically. That

1 is not really the same process that you have at the local side.  
2 While there have been instances of slamming on the local side,  
3 it is a far more complicated process and so the actual slamming  
4 of local customers is extremely difficult to accomplish.

5 It can be done and it has been done, but it is not  
6 really a local problem. I don't think the Commission has any  
7 evidence or any suggestion that there is a real local slamming  
8 problem, so that the time lag that creates the vulnerability in  
9 your case probably in reality doesn't make any difference. It  
10 doesn't happen that way.

11 CHAIRMAN BAEZ: Okay. Mr. Feil.

12 MR. FEIL: Thank you, Mr. Chairman. Matt Feil for  
13 FDN. I am here mostly to answer questions, but in terms of  
14 comment, I wanted to perhaps make clear FDN's position. FDN  
15 supports Ms. White's suggested change that the temporary  
16 disconnect period not be fixed for a number of days, but rather  
17 that individual carriers be given flexibility for the temporary  
18 disconnect period. I have no objection, FDN has no objection  
19 to Mr. Chapkis' suggested change relative to when a PC freeze  
20 may be suggested to a new customer. I'm generally supportive  
21 of Sprint's suggested change, and with respect to AT&T's  
22 request and Commissioner Deason's suggestion, we are generally  
23 supportive of the notion that the PC freeze should be lifted  
24 within the time certain.

25 COMMISSIONER JABER: Mr. Chairman, may I ask at this

1 point a question I was going to ask Ms. White earlier, since  
2 Mr. Feil brought up the same subject?

3 CHAIRMAN BAEZ: Go ahead.

4 COMMISSIONER JABER: Notwithstanding Sprint's  
5 argument with regard to the temporary disconnect definition and  
6 whether it belongs in the rule at all, is your concern, Ms.  
7 White, as it relates to the definition that the definition  
8 creates unintended consequences for other applications of  
9 temporary disconnect in your internal --

10 MS. WHITE: That is a possibility, yes.

11 COMMISSIONER JABER: I am worried about that, as  
12 well. And my question to you is, is your concern alleviated if  
13 we take out the definition from the definition portion of the  
14 telecommunications rule, and move it -- Mr. Feil, I would like  
15 to hear your comment in this regard -- and move it specifically  
16 to what is currently proposed by staff as the number  
17 portability rule?

18 MS. WHITE: Well, I'm not so much concerned about  
19 there being a definition of temporary disconnect as I am  
20 concerned with there being the time limit of ten days in there.

21 COMMISSIONER JABER: But, I thought that your concern  
22 with regard to the time limit is that it would apply to other  
23 situations where you apply the definition. And if the  
24 definition could be specifically placed in the section on  
25 portability, doesn't that alleviate the concern?

1 MS. WHITE: That is a possibility. We haven't  
2 considered that, but that is a possibility.

3 COMMISSIONER JABER: I don't know what will happen at  
4 the end of this vote, but if you could continue to think about  
5 that. I ask it from the concern of unintended consequences,  
6 but I also ask it from a logistical position. It is one less  
7 rule we have to propose or move forward. As I understand it,  
8 and, staff, you can confirm, that is the only place you would  
9 suggest we modify the definition section is for that  
10 definition.

11 COMMISSION STAFF: It would also need to be in 25-4

12 --

13 MS. CIBULA: 25-24.490 as well for the long distance  
14 number portability.

15 COMMISSION STAFF: Both places.

16 COMMISSIONER JABER: Thank you, Mr. Chairman.

17 CHAIRMAN BAEZ: Commissioners, any other questions?

18 COMMISSIONER DAVIDSON: Yes, I have a series of  
19 questions. And I guess my first concern goes to the inclusion  
20 of a definition of temporary disconnect, and I approach this  
21 somewhat differently than Commissioner Jaber. I have trouble  
22 with defining temporary disconnect for a time certain, no  
23 matter where we place it in the rule itself. And this is for  
24 the parties. Do business practices vary as to what constitutes  
25 a temporary disconnect, Mr. Feil?

1 MR. FEIL: I don't believe so. I think that the  
2 variance may be with respect to the time period, but I don't  
3 think there is any variance as to what a temporary disconnect  
4 is.

5 MS. WHITE: Yes, I would agree with that.

6 COMMISSIONER DAVIDSON: Well, the definition of  
7 temporary disconnect in the proposed rule if you take out the  
8 time limit, would just be a disruption of telephone service  
9 prior to permanent disconnect. I mean, how would you all  
10 define a temporary disconnect eliminating a time issue, Mr.  
11 Feil?

12 MR. FEIL: The suggestion you just made would be  
13 acceptable to me.

14 MS. WHITE: And with BellSouth.

15 COMMISSIONER DAVIDSON: Verizon.

16 MR. CHRISTIAN: (Inaudible).

17 COMMISSIONER DAVIDSON: Sprint. Do you all object  
18 generally? Sorry, I didn't mean to cut you off.

19 MS. MASTERTON: No, no, that is okay. I guess, I'm  
20 not sure what it means when you cut it down to that. It is my  
21 understanding that businesses are not required to provide 911  
22 services to businesses, so I am just not sure what it would  
23 mean if you had the language without a time frame or we object  
24 to it with the time frame or without the time frame, but just  
25 taking your question, I'm not sure that it would have much



1 meaning.

2 COMMISSIONER DAVIDSON: I agree with you. I don't  
3 think this provision has much meaning at all. But, Mr. Hatch?

4 MR. HATCH: I don't think that I would object.

5 COMMISSIONER JABER: Commissioner Davidson, someone  
6 was talking when you asked the initial question and I lost the  
7 suggested language. What was it you were asking?

8 COMMISSIONER DAVIDSON: Well, I am probably going to  
9 move that we just eliminate that provision on temporary  
10 disconnect, and I suppose the alternative would be just a  
11 disruption of telephone service prior to a permanent disconnect  
12 and just eliminate the time period. But for Sprint, which is  
13 maintaining an objection to any inclusion of a definition of  
14 temporary disconnect, the parties have all indicated that that  
15 definition would be acceptable.

16 So I would just, I would at some point move for the  
17 deletion of Subparagraph 53, I guess, in the proposed rule, and  
18 just eliminate the definition of temporary disconnect in  
19 general. And alternatively include a definition that just says  
20 a disruption of telephone service prior to a permanent  
21 disconnect.

22 Mr. Hatch, you have provided alternative language  
23 which would add back in a new Section 13. Given all of the  
24 parties that you indicated are involved in a UNE-P scenario,  
25 are the 24 hour sort of time limits in the middle of the

1 paragraph and at the end of the paragraph reasonable?

2 MR. HATCH: Not having conducted a full survey of all  
3 the CLECs out there to determine whether there is any variance  
4 out there, the answer is I don't know. But it seemed  
5 reasonable to us just in trying to create some sort of a time  
6 period. I know that MCI does have some concerns about that.

7 MS. McNULTY: Commissioner Davidson, if you don't  
8 mind, I would just like to state for the record that MCI  
9 recently learned of the 24 hour time period, to lift it for the  
10 UNE-P process, and we just have not been able to determine at  
11 this time whether or not we could comply with that.

12 COMMISSIONER DAVIDSON: And let's just start with  
13 BellSouth. Take a look at that alternative language. Is that  
14 language acceptable, unacceptable, unacceptable in part, and --

15 MS. WHITE: I think we have a problem with that  
16 language for several reasons. One is it is putting new --  
17 essentially it is putting a new performance measure in place  
18 that I don't know what it is going to entail to get  
19 confirmations to track the local freeze request being  
20 submitted. I mean, I think that is going to change your  
21 statement of regulatory costs which -- because it is something  
22 we haven't looked at.

23 The original language the staff had, and I don't have  
24 that in front of me, but it is something to the effect of, you  
25 know, local providers can't reject an LSR while the lifting of

1 a freeze is going on. I mean, that is not very artfully said,  
2 but that is the bottom line to it. BellSouth is working on  
3 putting a fix into place to address that problem that hopefully  
4 will be in place by July. But with this alternative language,  
5 I have no idea whether that fix that we are working on that is  
6 to be in place would comply with this alternative language or  
7 not. So I am concerned about work that has already been done  
8 on our end that if you adopt this alternative language may be  
9 just completely superfluous.

10 COMMISSIONER DAVIDSON: What do you view as  
11 BellSouth's duty, couched in general language with regard to  
12 the subject matter of this proposed language?

13 MS. WHITE: Well, I think what we are trying to do is  
14 if we know -- if we have got an LSR that says, this person  
15 wants to change from this provider to the other provider, and  
16 we see that the end user has a local freeze, and we also know  
17 that, you know, we are in the middle of lifting the freeze,  
18 then we do what we can to assist the end user in moving from  
19 one provider to the other provider.

20 COMMISSIONER DAVIDSON: So the duty is do what we  
21 can.

22 MS. WHITE: I think it is do the best we can, but we  
23 have to have something in place to be able to know whether  
24 there is -- whether the freeze is being lifted or not, and I  
25 think that is the fix we are working on.

1           COMMISSIONER DAVIDSON: Verizon, what is your  
2 position on this language, and also how does Verizon approach  
3 this issue?

4           MR. CHAPKIS: Verizon opposes this language similar  
5 to BellSouth. As a threshold matter, this is the first time  
6 that Verizon has seen this proposal, notwithstanding the fact  
7 that this process has been going on for quite some time. It is  
8 difficult to evaluate how quickly we could do this. 24 hours  
9 strikes me without research and without having the opportunity  
10 to consult our subject matter experts, as quite a tight  
11 turnaround.

12           Also, I would just like to mention that the magnitude  
13 of this problem or what this is designed to address is not that  
14 significant. I think something like one percent of Verizon's  
15 customers have a local PC freeze in place, and so that to the  
16 extent that this rule is costly, it is costly and it is not  
17 addressing a large problem. And I would have to say that in  
18 terms of what Verizon's process is, I think that Ms. White  
19 described it aptly as we do the best we can.

20           COMMISSIONER DAVIDSON: Sprint.

21           MS. MASTERTON: I believe that the alternative  
22 language that AT&T is proposing addresses most, if not all, of  
23 Sprint's concerns with the original language. This last  
24 sentence, where it says, you know, the underlying provider  
25 shall provide confirmation within 24 hours, I presume that

1 means 24 hours of receiving the request from the CLEC. And  
2 with that clarification, I think that it addresses our  
3 concerns.

4 COMMISSIONER DAVIDSON: FDN.

5 MR. FEIL: Well, when I first read this alternative  
6 language AT&T proposed, I was a little concerned with the  
7 disparity between the way the UNE-P provider would be treated  
8 and the way the UNE-L would be treated.

9 COMMISSIONER DAVIDSON: But not shocked.

10 MR. FEIL: But I recognize, however, that the UNE-P  
11 provider does have to take the extra step of actually sending  
12 an order to the ILEC in order to lift the freeze. That said, I  
13 don't know whether or not I can support the alternative  
14 language or not, having not consulted the client about it. I  
15 don't think at this time that the original language that Mr.  
16 Hatch referenced, the original subparagraph or Paragraph 13  
17 would be objectionable to us.

18 And as I indicated before, I think that it may help  
19 if there is some sort of time line. I understand Ms. White's  
20 concern with establishing some additional type performance  
21 matrix associated with that, and maybe the way to resolve this  
22 is to have the rule stated more in the way of a guideline or  
23 something along that line.

24 COMMISSIONER DAVIDSON: All right. Thank you. And  
25 just for the Commissioners, I mean, my concern with this

1 provision is that the specific time frame that is -- it is laid  
2 out, because we heard from -- we heard from AT&T who proposed  
3 it and MCI that they just don't know the basis for the 24  
4 hours. And if they don't know the basis, parties don't know  
5 the basis, we don't know the basis, it seems somewhat arbitrary  
6 to just impose a time limit. And that is a commentary that I  
7 would like to throw out for discussion at the end of this.

8 I would like to move on to --

9 COMMISSIONER DEASON: Commissioner, may I interpret?  
10 Can I follow up on that before you move on?

11 COMMISSIONER DAVIDSON: Sure.

12 COMMISSIONER DEASON: Are you are moving on to a  
13 different subject matter?

14 COMMISSIONER DAVIDSON: Yes.

15 COMMISSIONER DEASON: Okay. This question is for  
16 BellSouth and for Verizon. I'm trying to understand the  
17 concern and how systems work and interface, and I guess from a  
18 very simplistic point of view it seems to me that if you, as  
19 the underlying carrier, receives a request for a local service  
20 change, you have got the LSR and then it indicates there is a  
21 local freeze, couldn't you just query a database saying, is  
22 there a pending lifting of the freeze? And if you come back  
23 yes, you just process it. I mean, what is so complicated? And  
24 I'm sure that I am oversimplifying it.

25 MS. SIMS: Commissioner Deason, this is Nancy Sims,

1 BellSouth. Today it is treated as any other pending order. In  
2 other words, first in, first worked. And if it comes in and  
3 there is a local service freeze in it rejects. In July,  
4 hopefully we will have a fix for that, because we have had  
5 complaints about the local service freeze not being lifted.

6 COMMISSIONER DEASON: And what would be the fix?  
7 Would it make a query to the database?

8 MS. SIMS: The fix will allow -- I don't know exactly  
9 how it queries, but it will allow for that order, if there is a  
10 an order in to lift the PC freeze and an order comes in to take  
11 that customer to another CLEC, the order will not be rejected.  
12 It will remain there until the local service freeze is lifted.  
13 So, yes, it will fix that situation in July.

14 COMMISSIONER DEASON: That will be effective in July?

15 MS. SIMS: Yes. We hope to be effective in July,  
16 barring any unforeseen circumstances. And I think the biggest  
17 concern we had was if we are the underlying provider and a  
18 customer is going from one CLEC to another CLEC, and the CLEC  
19 he is leaving he had a local service freeze on, one of the  
20 issues is how quickly will that CLEC get that LSR to us to lift  
21 the PC freeze. How quickly will that happen, because we have  
22 performance measures underlying that say, regardless of what  
23 kind of a service order we receive, we have to give them a firm  
24 order commitment within a certain period of time. We have to  
25 provision the order within a certain period of time. So we

1 already have performance measures behind the scenes on  
2 processing that order, regardless of what it is. So the  
3 question is, how quickly will the CLEC get the LSR to us to  
4 lift the PC freeze. That is one of the crucial pieces in this  
5 puzzle of processing the customer to the new CLEC.

6 COMMISSIONER DEASON: Verizon.

7 MR. CHRISTIAN: David Christian with Verizon  
8 Communications. I don't think I could have said it any better  
9 than what Ms. Sims just informed you about. It is a timing  
10 issue between systems, and the timing issue when the CLEC that  
11 is losing the customer sends in the LSR to lift the freeze and  
12 to make the change, and the new provider enters the LSR to take  
13 the customer, how do you marry those two timing issues? And I  
14 think that is where we are at.

15 COMMISSIONER DEASON: So you are saying the problem  
16 is really a further subset not only of customers that even have  
17 a local freeze, but those that do have a local freeze that want  
18 to transfer from one CLEC to another CLEC. So you are talking  
19 about a very small number.

20 MR. CHRISTIAN: A very small number of customers here  
21 in this situation.

22 MS. KHAZRAEE: Commissioner Davidson, this is Sandy  
23 Khazraee with Sprint. And I know you didn't address that  
24 question to Sprint, but I feel like I need to respond. The  
25 original language that we responded to in our comments said,



1 "Local providers shall ensure that the local service order will  
2 not reject while the local freeze lift request is in progress."  
3 And it is true what Mr. Hatch said. We related our comments to  
4 the legal side, which is if there is a local freeze, we are not  
5 supposed to be taking it off. That is the point of having a  
6 local freeze. But if you are going to get into the system  
7 changes, Sprint would have an issue, and we would not be able  
8 to do what I believe was just described in that question  
9 because currently a customer that has a local freeze has an  
10 SAE code in their record which says they have a local freeze.  
11 When we receive an LSR from a CLEC to change that customer's  
12 local service, our systems query a database called CRB and it  
13 looks at what SAE codes are on that customer's account. And  
14 when it sees the SAE code for a local PC freeze, it rejects the  
15 order. And in order to keep that from happening, we would have  
16 to go in and revise, make programming revisions in our systems,  
17 and I did not determine the cost or the timing to do that  
18 because I really wasn't aware that we were going to be  
19 discussing that today. So I apologize for not having that  
20 information. But it would be system impacting and it would  
21 require changes.

22 COMMISSIONER DEASON: Thank you.

23 CHAIRMAN BAEZ: Commissioners, any other questions?

24 COMMISSIONER DAVIDSON: Yes, Commissioner. Following  
25 up on -- and just to reiterate, I mean, that was sort of my

1 concern is that at this point we don't have a record basis for  
2 setting a time here; whether it is 24 hours, 48 hours, 72  
3 hours, or 12 hours, we don't know.

4           Moving on to the issue of number portability, which  
5 Ms. Masterton raised. And I apologize if I just missed this,  
6 this Page 20, Attachment A, that was handed out, did Sprint  
7 hand that out at the beginning?

8           MS. MASTERTON: Yes.

9           COMMISSIONER DAVIDSON: And your proposed change is  
10 to -- in that section, Section 3, striking beginning at "or"  
11 and eliminating the phrase ending with "status." Would that  
12 language in and of -- the proposed language, the local provider  
13 shall not disconnect a subscriber's working number regardless  
14 of whether a balance is owed, would that address the situation  
15 where a service has been disconnected? I mean, you have  
16 eliminated the language, but isn't it possible that a balance  
17 is owed and service has been disconnected?

18           MS. MASTERTON: Right. I mean, yes, obviously if it  
19 is a temporary disconnect, the reason for it is because a  
20 balance is owed. What we were trying to get at because it  
21 speaks to a working number and we interpret that to mean a  
22 number that is working for the customer and a number in  
23 temporary disconnect status is not. The purpose of that  
24 language was really to address -- the one concern that staff  
25 talked about in their recommendation was that some providers

1 have left a customer on line until they get a request for local  
2 service, and then they disconnect them even if a balance is  
3 owed. And we were trying to continue to address that. Once  
4 you get a request to transfer the service, you can't disconnect  
5 it.

6 COMMISSIONER DAVIDSON: And, finally, for Mr.  
7 Chapkis, could you again articulate your issue with the  
8 preferred carrier freeze?

9 MR. CHAPKIS: Certainly, Commissioner Davidson. What  
10 Verizon would really like to do, and I can repeat the language  
11 specifically if you want me to at the end, but we want to make  
12 sure we can mention the preferred carrier freeze to the  
13 customer when the customer first contacts the company for  
14 service, not when --

15 COMMISSIONER JABER: Could you go ahead and give us  
16 the language, Mr. Chapkis, because I missed it. You were going  
17 quickly.

18 MR. CHAPKIS: Okay. And let me give you the  
19 language. In Subsection 5, between the words local provider  
20 and with concerns, I would insert the language, "For the  
21 initiation of service or."

22 COMMISSIONER DAVIDSON: Could you repeat that for me,  
23 Richard, please.

24 MR. CHAPKIS: Yes. In Subsection 5 of the preferred  
25 carrier freeze rule, between -- in the, I guess it is the third

1 line of that section there is the words local provider with  
2 concerns, and in between those two, in between local provider  
3 and with concerns, I would insert the words "For the initiation  
4 of service, or."

5 COMMISSIONER JABER: Thank you.

6 MR. HATCH: May I make an observation to that  
7 language?

8 COMMISSIONER DAVIDSON: Sure.

9 MR. HATCH: We would probably oppose that language,  
10 because one of the biggest problems that this rule does address  
11 for us is that it prohibits the affirmative solicitation or  
12 marketing of PC freezes. We view that in the CLEC community as  
13 absolutely anticompetitive, because the ILEC who has the vast  
14 bulk of the customers now continues to get most of the local  
15 service requests. And if you take the language that Mr.  
16 Chapkis is suggesting here now, there is an extraordinarily  
17 fine line between marketing and informing. And, frankly, it  
18 would have to be done on a case-by-case basis, and I don't know  
19 how you would make that distinction. But if you get into the  
20 scenario where you are actually affirmatively pushing customers  
21 to solicit PC freezes, local PC freezes, then it really is  
22 anticompetitive, because then what happens is the customer  
23 doesn't have a concern with it. It has been presented to them  
24 as something you really should do. And as I mentioned earlier,  
25 the whole PC freeze problem was really more of an LD problem,

1 it has never been a local problem. And as Mr. Chapkis  
2 mentioned earlier, as he stated, less than one percent of the  
3 customers have a PC freeze. Well, if you start doing this  
4 language, that number is going to go up. And notwithstanding  
5 even at one percent, if Verizon has got a million customers,  
6 what is that in real terms of numbers of customers that are  
7 affected by a PC freeze? And which adds incrementally to every  
8 attempt for a CLEC to go and recruit those customers. It is  
9 one thing if a customer thinks they have a problem to request  
10 it, clearly Florida Statutes require that you notify them every  
11 year at least annually that the PC freeze is available. I  
12 think that is enough. But to take the next step and to start  
13 incrementally down that slippery slope of affirmatively  
14 marketing them, I think is a bad way to go. It locks in  
15 customers for them and makes it that much more difficult for  
16 competition to take place and to take hold.

17 COMMISSIONER DAVIDSON: Well, let me ask you. I  
18 mean, the rule as drafted -- the language that Mr. Chapkis is  
19 suggesting seems to narrow the universe. The language added  
20 contacts the local provider for the initiation of service.  
21 Let's say that language wasn't in there. Wouldn't the rule as  
22 drafted still address that scenario? I mean, you have added  
23 modifying language in.

24 MR. HATCH: I'm not sure that it does.

25 COMMISSIONER DAVIDSON: Well, you can say a

1 subscriber who contacts the local provider with concerns about  
2 slamming. That is this universe. A subscriber who contacts  
3 the local provider for the initiation of service narrows that  
4 down.

5 MR. HATCH: It doesn't, because you inserted or. It  
6 is those that call for service and also the universe of those  
7 that call with concerns. You have expanded the universe to the  
8 extent they are not coincident.

9 COMMISSIONER DAVIDSON: I see what you are saying.

10 MR. HATCH: And so with concerns is fine with us, but  
11 incrementally adding an additional increment of folks that they  
12 can essentially inform, which really for our purposes amounts  
13 to a solicitation.

14 COMMISSIONER DAVIDSON: Is there an existing rule on  
15 the book that would prohibit the local provider addressing this  
16 issue, a proposed local provider addressing this issue?

17 MR. HATCH: No.

18 COMMISSIONER DAVIDSON: And I'm trying to think as a  
19 customer. If a customer called a company and said, listen,  
20 this is what has been happening to me, and I want to get a new  
21 carrier, get a great deal, good price, good service, but I  
22 don't want to be sort of run over like I have been in the past  
23 and this is an issue. Could the carrier address that?

24 MR. HATCH: I assume so. I'm not quite sure what you  
25 are referring to. I'm not quite sure of the specific scenario

1 that you are trying to get to.

2 COMMISSIONER DAVIDSON: Well --

3 MR. HATCH: I mean, the problem --

4 COMMISSIONER DAVIDSON: Well, let me ask Mr. Chapkis.  
5 Are there reasons for talking about a preferred carrier freeze  
6 at the outset other than because someone is being slammed?

7 MR. CHAPKIS: I just don't perceive this as  
8 marketing. I just think it is to enhance the information that  
9 the customer has, and it is merely asking the customer do you  
10 want the service or do you not want the service. Just like  
11 asking them what long distance provider do you want. It makes  
12 them aware of their alternatives and gives them a chance to  
13 choose the service or not choose the service. Which by the way  
14 Verizon doesn't charge for.

15 CHAIRMAN BAEZ: Mr. Chapkis.

16 MR. HATCH: They don't charge because they are not  
17 allowed to.

18 CHAIRMAN BAEZ: Are you the only one that can provide  
19 this service?

20 MS. WHITE: No. I'm sorry, I'm a little eager.

21 (Laughter). But, I mean, to me it's like if it is a new  
22 customer, then it is a customer who may not have gotten the  
23 bill insert or the notice saying local freezes are available.  
24 To me it is the same as asking what choices do you want, that  
25 kind of stuff.

1           CHAIRMAN BAEZ: Ms. White, but that is the point of  
2 my question. When you ask a customer what long distance  
3 provider do you want, you have the whole array of long distance  
4 providers before you to choose from. If you ask a customer in  
5 this scenario, if you ask a customer would you like a PC  
6 freeze, can the customer then say, yes, I would like my PC  
7 freeze from ABC Company over there. That is not the question  
8 that is being asked. There isn't an array of choices. That is  
9 my question. Are you the only one that can provide this  
10 service?

11           MS. WHITE: No, you are absolutely correct, we are  
12 not the only one. But we are the one, or AT&T is the one, or  
13 whoever is the one they are calling and saying I want local  
14 service from. If this is a new customer, chances are they  
15 haven't gotten a notice that says you can have a PC freeze. If  
16 you wait for them to call and complain about slamming, you  
17 know, then you have got the complaint to deal with.

18           CHAIRMAN BAEZ: Did it affect --

19           MS. WHITE: I'm just saying it seems to me like it is  
20 more customer service to say for a brand new customer, do you  
21 want it or don't you want it. Not, hey, we have got a great  
22 deal for you, this PC freeze. Boy, you have got to have it.  
23 It is the greatest thing since sliced bread. But here is an  
24 option; this is what it does, do you want it or don't you want  
25 it, period.



1           CHAIRMAN BAEZ: Let me tell you, the PC freeze is a  
2 very attractive option. It is. I mean, if anyone came over  
3 and said, we can guarantee that you, whatever, okay, safety of  
4 some sort, and it doesn't cost you a thing, who would say no?  
5 The problem that I'm seeing is that since the company, since  
6 the provider -- and, again, it doesn't have to be -- like you  
7 said, it doesn't have to be BellSouth, or Verizon, or any of  
8 the ILECs, it could just as well be an MCI or an AT&T that can  
9 offer the service. But do you see the distinction between  
10 asking a simple question in which there are -- of one provider  
11 of which there are an array of choices, and this situation  
12 where when you are asking do you want motherhood and apple pie  
13 and you said yes, well, I am the only one that can give it to  
14 you in this scenario. And there is a difference. I am seeing  
15 a distinction in those circumstances, because this kind of  
16 protection can have the effect in my mind of, in fact,  
17 making -- I mean, I will be honest with you, I've got to agree  
18 with the way that Mr. Hatch has -- I am not ascribing any  
19 motives here. But do you see that it does create an extra  
20 step? And then we get into this whole complicated rule.

21           MS. WHITE: I understand.

22           CHAIRMAN BAEZ: And once the PC freeze is established  
23 --

24           MS. WHITE: But I also understand that Mr. Hatch must  
25 not have talked to very many CLECs, because we have found many,

1 many CLECs that automatically put PC freezes on customers'  
2 accounts when they sign up for service without the customer  
3 even knowing. Now, I know that is what this is supposed to  
4 combat.

5 CHAIRMAN BAEZ: And that is something, and perhaps  
6 that is something that will be abated, that is a practice that  
7 gets abated by rules like this.

8 MS. WHITE: And I hope it does.

9 CHAIRMAN BAEZ: And I hope it does, too, because I  
10 wouldn't want -- that is not something that should be  
11 happening.

12 MS. WHITE: I understand exactly what you are saying.

13 CHAIRMAN BAEZ: I think that goes for everyone. I  
14 think that goes for everyone here. And if this rule has the  
15 effect of eliminating those possibilities just as much, but I  
16 guess I want to come back to the focus of the rule. I'm having  
17 trouble seeing -- for all the good, for all the good that the  
18 service does, and it does and I would urge every customer out  
19 there listening to really get educated on the services that are  
20 available for them, I am just not convinced that it is the  
21 provider in the catbird seat that needs to be offering it,  
22 because one way or another it inures to their benefit despite  
23 the best of intentions of which we all have.

24 MS. WHITE: Well, and I understand what you are  
25 saying completely, and I guess I kind of viewed this as a

1 somewhat different situation.

2 COMMISSIONER DAVIDSON: Do you agree with him?

3 MS. WHITE: I agree with him in the general sense of  
4 things, but I viewed this as a little bit different because it  
5 was a new customer who may not have gotten a notice, who may  
6 not know that this option is available. And so, you know, are  
7 you giving the customer the full information. That is the only  
8 thing I'm talking about. This instance is that I'm looking at  
9 this as I just moved to the state, hey, I don't know this is  
10 available.

11 CHAIRMAN BAEZ: And I don't want to -- and I don't  
12 want anyone to misunderstand me. I don't want to sound like I  
13 am against having customers in Florida and for that matter  
14 nationwide to be as well educated about the services,  
15 protective service quote, unquote available to them as  
16 possible. That is not my intent. But perhaps the information  
17 and perhaps the education has to come through another channel,  
18 so as to remove, so as to remove the unintended consequences  
19 that services like this have. It should be a conscious choice  
20 not necessarily offered by a company, any company, any local  
21 provider that by virtue of that service stands to create an  
22 advantage of some sort no matter how, no matter how peripheral  
23 it might be. And I'm sorry, there are other Commissioners with  
24 questions.

25 COMMISSIONER JABER: Mr. Chairman.

1 MS. McNULTY: Chairman Baez, I just have one comment  
2 that may help with this conversation. I believe the existing  
3 rule requires local -- the companies that bill for local  
4 service to inform their customers with the first bill, so I  
5 think that would address the problems. So they get  
6 information, you know, within the first billing cycle and it  
7 would alleviate the concerns.

8 CHAIRMAN BAEZ: Mr. Chapkis, perhaps Commissioner  
9 Jaber, who was a question right now, will create an opening for  
10 you to comment on that.

11 MR. CHAPKIS: Certainly.

12 COMMISSIONER JABER: I will be glad to. Mr.  
13 Chairman, the exchange you had with Ms. White has given me an  
14 opportunity to come back with some foundation questions I have  
15 and some concerns I've got with regard to the focus of the rule  
16 to use your words. I need staff to address for me what the  
17 genesis of the proposed rule is, what you believe the problem  
18 is, the severity of the problem, and how this rule solves the  
19 problem. I am trying to get my hands around, Mr. Kennedy, why  
20 we need to initiate rulemaking and the scope of this  
21 rulemaking.

22 MR. KENNEDY: Okay. The purpose for the initiation  
23 of the rulemaking was for the past three years we have had  
24 significant -- what we believe are a significant number of  
25 complaints where competitive local exchange companies primarily

1 have placed freezes on customers service without their  
2 authorization. This directly impacts the customer who cannot  
3 move to a new provider because the freeze is there, and because  
4 it costs the CLEC to remove that freeze, they just disconnect  
5 the customer in many cases. The customer winds up without  
6 service. This morning I did a quick review from October the  
7 1st of 2003 until 1/28/2004 of complaints regarding these types  
8 of issues.

9 COMMISSIONER JABER: From what time period to what  
10 time period?

11 MR. KENNEDY: 10/1/03 to 1/28/04. That I have  
12 identified we had 196 complaints involving 32 different  
13 companies, and in many cases the customer wound up without  
14 service because the freeze was there. So that is what we are  
15 dealing with on basically a daily basis.

16 COMMISSIONER JABER: Let's take it a step at a time.

17 CHAIRMAN BAEZ: I'm sorry, Commissioner Jaber, but,  
18 Mr. Kennedy, can you clarify briefly when you say, "involving  
19 32 different companies," that the 32 different companies had  
20 requested changes of service?

21 MR. KENNEDY: No, these are complaints filed  
22 against -- 196 complaints have been filed against 32 different  
23 companies providing local service.

24 CHAIRMAN BAEZ: Because these companies allegedly  
25 have freezes on --

1 MR. KENNEDY: Right, or they won't port the number  
2 because money is owed. It is a combination of the two.  
3 Primarily PC freezes, though.

4 CHAIRMAN BAEZ: And just for the record, there are  
5 not 32 ILECs here.

6 MR. KENNEDY: No, I think there may have been two  
7 against the ILECs, all the rest were against CLECs.

8 COMMISSIONER JABER: Chairman Baez asked a couple of  
9 my questions. I want to take it a step at a time. The 196  
10 complaints, are they from end user customers, or other  
11 providers, or a combination?

12 MR. KENNEDY: It is a combination, primarily end  
13 user.

14 COMMISSIONER JABER: And obviously, you know, you can  
15 determine what that combination is, you have the numbers.

16 MR. KENNEDY: Yes.

17 COMMISSIONER JABER: As Chairman Baez touched on the  
18 32 different companies, I am assuming that the majority just  
19 because the numbers work out the way they work out, that the  
20 majority of the 32 different companies are ALEC companies.

21 MR. KENNEDY: That is correct.

22 COMMISSIONER JABER: Now, do you have enough  
23 information to dig deep to determine whether those ALEC  
24 companies that are being complained about have the difficulty  
25 in removing the freeze because they are UNE-P CLECs?

1 MR. KENNEDY: They don't. What I see is they don't  
2 even attempt to remove it. They have no concern for the  
3 customer. They don't submit an order.

4 COMMISSIONER JABER: Okay. You have got  
5 documentation showing that the problem is they haven't  
6 submitted the order?

7 MR. KENNEDY: That is correct.

8 COMMISSIONER JABER: And you said the customer winds  
9 up without service.

10 MR. KENNEDY: Right.

11 COMMISSIONER JABER: How do you know that?

12 MR. KENNEDY: That is what they state in their  
13 complaints.

14 COMMISSIONER JABER: And how have you solved those  
15 complaints, resolved the complaints to the customer's  
16 satisfaction without this rule?

17 MR. KENNEDY: I know in many of these that we handle  
18 in our particular division the customers basically went to a  
19 new carrier with a new phone number and they were without  
20 service 14 days. You can't hardly undo this once it is done.  
21 Once they are disconnected, I mean, they are at square one.  
22 They start all over again. And that is what we see happening.

23 Now, in companies that don't know that they cannot  
24 put a freeze on, that it is not really their choice, the  
25 customer's choice, we have companies like that who voluntarily

1 take them off. Those aren't the problem companies. It is the  
2 others who really want to know when the customer is moving, who  
3 may call the customer, put pressure on them to stay with them,  
4 threaten them, or whatever they may do.

5 COMMISSIONER JABER: Well, let me ask you this, Mr.  
6 Kennedy. To some degree it is a devil's advocate kind of a  
7 question. Don't read into it more than necessary, but to the  
8 degree the consumer has a choice and can give up on the company  
9 that is not providing the new service, for whatever reason, why  
10 is that a concern of this regulatory agency in a developing  
11 competitive market?

12 MR. KENNEDY: Well, I have thought of that question.  
13 Besides the problem for the consumers in a competitive market,  
14 the fact that they put the freezes on and don't allow the  
15 customers to go to a new carrier, that as Mr. Hatch, I believe  
16 stated, could be considered anticompetitive.

17 COMMISSIONER JABER: And how does the proposed rule  
18 address your concern in that regard?

19 MR. KENNEDY: I'm sorry, I missed that.

20 COMMISSIONER JABER: You just said that your concern  
21 would be from a consumer standpoint that there might be some  
22 anticompetitive behavior. I don't know if your concern is  
23 legitimate or not, but how does your rule proposal address your  
24 concern?

25 MR. KENNEDY: By not allowing the company to put the



1 freezes on without the customer's expressed authorization as  
2 required in the rule, and not an automatic adding the freeze  
3 when they just acquire the customer.

4 COMMISSIONER JABER: And to follow your logic, how  
5 does the definition of temporary disconnect come in? And let  
6 me just state so you know, my preference is to not have a time  
7 period, either. But how does the definition address any of the  
8 concern you have?

9 MR. KENNEDY: That is to me a separate issue on  
10 Sprint not porting a number and temporary disconnect because of  
11 monies owed. I know a few years ago we contacted the FCC staff  
12 and proposed this issue, and they said they should not be held,  
13 they should not hold the number.

14 COMMISSIONER JABER: So are you saying that part of  
15 the rule was not proposed by staff at all?

16 MR. KENNEDY: Yes, it was. Yes, it was, but that  
17 wasn't the primary problem when we went into this. The primary  
18 problem was the companies placing the freezes without the  
19 customers even knowing about it.

20 COMMISSIONER JABER: But as it relates to whether a  
21 number can be ported if a customer has not paid an outstanding  
22 bill, that can be separate and distinct from the concern that  
23 you have been talking to me about?

24 MR. KENNEDY: Yes.

25 COMMISSIONER JABER: Are there FCC rules, guidelines.

1 That address the issue of whether a number can be ported if  
2 there are outstanding bills?

3 MR. CASEY: In October of last year the FCC came out  
4 with an order, it was actually the wireless number portability  
5 order, and numerous times they mentioned in the order that the  
6 number cannot be held hostage because monies are owed. They  
7 did do an interpretation of the number portability definition,  
8 and they said by Commission rules and under the  
9 Telecommunications Act -- as a matter of fact, I can quote it  
10 if you would like.

11 COMMISSIONER JABER: Go ahead.

12 MR. CASEY: This is an interpretation of the number  
13 portability rule. "We interpret this language to mean that  
14 consumers must be able to change carriers while keeping their  
15 telephone number as easily as they may change carriers without  
16 taking their telephone number with them. Accordingly, we  
17 conclude that carriers may not impose nonporting related  
18 restrictions on the porting out process."

19 And all through that article are the three or four  
20 more times they say the number cannot be held hostage because  
21 of money.

22 COMMISSIONER JABER: I want to give other  
23 Commissioners an opportunity to ask you all questions, so let  
24 me just ask one final one. I am moving to the rule  
25 specifically. If the Commission decides to move this rule

1 forward, your draft 25-4.083, Sub -- let me see if I can find  
2 it quickly. It is the first subsection, Mr. Kennedy. A PC  
3 freeze shall not be imposed on a subscriber's account without  
4 the subscriber's authorization. The first part of the rule.

5 MR. KENNEDY: The first paragraph under 25-4.083?

6 COMMISSIONER JABER: Yes. Should that be "shall not  
7 be imposed or removed or lifted"?

8 MR. KENNEDY: Right.

9 COMMISSIONER JABER: Your point is it shouldn't be  
10 placed on the freeze -- it shouldn't be placed on the  
11 customer's service and it shouldn't be removed from the service  
12 without the customer's --

13 MR. KENNEDY: That is correct. Placed or removed.

14 COMMISSIONER JABER: Thank you, Mr. Chairman.

15 CHAIRMAN BAEZ: Commissioner Deason.

16 COMMISSIONER BRADLEY: I have a question of staff.  
17 You used the -- you said that the number can't be held hostage.  
18 How does this rule, though, allow for us solving the problem of  
19 individuals who are not paying their bill, but who want to  
20 maintain their number and move to another company? It would  
21 seem to me that --

22 MR. CASEY: Staff believes that if a customer has a  
23 number in temporary disconnect it must be ported according to  
24 the FCC, even with monies owed. Now, the customer can make  
25 arrangements or the carrier can collect their monies by other

1 means, through other statutes and things, but they can't hold  
2 that number hostage.

3 COMMISSIONER BRADLEY: Okay. And that is exactly  
4 what I'm trying to get at, number versus individual. I just  
5 don't want to have a situation that allows an individual to  
6 manipulate the system based on the fact that numbers can't be  
7 held hostage, a number, a phone number.

8 MR. KENNEDY: Can I address that?

9 COMMISSIONER BRADLEY: Yes.

10 MR. KENNEDY: I believe we have to look at that as a  
11 management problem really for the companies. If the customer  
12 is not paying them, they have to use their collection  
13 techniques, disconnection. Once they are disconnected, it  
14 can't be ported and they have guidelines on that. This rule  
15 won't solve a customer who doesn't pay. We see that as a  
16 management issue for the companies. You know, if they take a  
17 customer, I assume they do a credit background check of their  
18 capability to pay, and this rule will not address that. If  
19 it's two cases they can port, if it is a working number, and  
20 I'm not sure listening to the conversation here today whether  
21 or not a working number -- I believe what Sprint proposed, a  
22 working number even if they owed money, they will release them.  
23 But a temporary disconnected number, they may owe money and  
24 then again they may not. Maybe the company is wrong in some of  
25 those cases. We have found that to be the case, as well. So

1 it is a two-way street, but primarily probably the majority of  
2 customers do owe money, but I don't think this rule is  
3 addressing that. That is a management issue for the companies,  
4 and I don't have an answer for that.

5 COMMISSIONER BRADLEY: And I agree that that is a  
6 management issue, but it also may be an issue -- not to put you  
7 on the spot -- but it also may be an issue that is encouraging  
8 companies to not release that number until they can collect  
9 what is owed. I'm just trying to figure out how we can modify  
10 our rule in order to create something that is more acceptable  
11 for the customer as well as the company as it relates to monies  
12 that are owed.

13 MR. KENNEDY: I understand your concern, and I look  
14 at it, yes, that may be true, but they can still leave even if  
15 they don't take the number with them. They can do the same  
16 thing by having a disconnect and ordering service from a new  
17 company and not paying. So, either way I see it the company  
18 may not get paid, and then they have to go with their  
19 techniques for collection to try to obtain the payment.

20 CHAIRMAN BAEZ: Commissioner Deason, my apologies.

21 COMMISSIONER DEASON: Well, I think Commissioner  
22 Davidson was in a series of questions. Did he finish?

23 CHAIRMAN BAEZ: Commissioner Davidson actually  
24 finished, yes. The floor is yours, sir.

25 COMMISSIONER DEASON: All right. Well, I wanted to

1 go back to where we were talking about the Verizon proposal to  
2 insert language allowing them to inform customers at the  
3 initiation of service of the option of a local service freeze.  
4 And I believe Mr. Hatch had an objection that that was  
5 anticompetitive. And I guess my question is for Mr. Hatch.  
6 I'm having a problem with your leap of logic that informing a  
7 customer of an option is anticompetitive. You need to explain  
8 that to me.

9 MR. HATCH: Sure, I would be glad to. First, in  
10 terms of presenting the information to the customer, the  
11 customer gets that. The customer gets the information as to  
12 the option of a local PC freeze or an LD PC freeze in its first  
13 bill. It has to have that pursuant to existing rule.

14 COMMISSIONER DEASON: Let me interrupt. If they are  
15 going to get it 30 days later from calling to initiate service,  
16 why not tell them when they are initiating service? And we  
17 both know that when someone is speaking to a customer service  
18 representative about choices and options when they are  
19 initiating service, they are more in tune and they are  
20 listening. Lots of times people get inserts in bills and they  
21 find their way into the trash can rather rapidly.

22 MR. HATCH: Let me put it to you this way,  
23 Commissioner Deason. AT&T takes the position there should be  
24 no local PC freezes because we view them as terribly  
25 anticompetitive.

1           COMMISSIONER DEASON: Hold on. I'm sorry, I've got  
2 to ask this question. Well, why are we discussing all of these  
3 options, or the procedures when there is a freeze in place, how  
4 you go about it, lifting it and changing, and it has to be done  
5 within 24 hours, how then does the fact that there is a local  
6 service freeze equate to it being anticompetitive?

7           MR. HATCH: The existence of a local -- there can be  
8 an affirmative good from a local PC freeze that prevents  
9 slamming, the unauthorized change of a customer. There can be  
10 a bad effect from a local PC freeze that you have heard Mr.  
11 Kennedy refer to, which is by far the more prevalent case,  
12 where the company that has the carrier, including a lot of  
13 CLECs, use that freeze as an offensive or perhaps a defensive  
14 weapon to keep those customers as long and as hard as they  
15 possibly can. Ultimately forcing them to choose another  
16 carrier and essentially forego their existing phone number in  
17 order to escape their existing serving carrier.

18           That is the anticompetitive effects of a freeze. It  
19 is that weapon to be used to prevent customers from voting with  
20 their feet. It is a roadblock to competitive. That is why  
21 AT&T has taken the position that there should be none.

22           Now, having said that, Florida Statutes require that  
23 it be offered to customers. Now, I would submit to you that  
24 the history of that requirement comes out of the LD industry,  
25 not the local industry. But there is no distinction in the

1 statute drawn between those two, so you are kind of stuck with  
2 it on both sides. But I will say to you that when a customer  
3 calls up and says, I want to sign up for service, then the  
4 question becomes how is that information presented.

5 I mean, if you are up late night watching TV at all  
6 ever, the bane of late night TV is the infomercial. Under the  
7 guise of presenting information, it is trying to sell you  
8 something. And when you start down this path that says, okay,  
9 you can tell them about the existence of the freeze, then you  
10 are started down that slippery slope of using it as an  
11 offensive weapon to keep your customers and to prevent them  
12 from leaving you once you have acquired them. That is the  
13 anticompetitive effects. We think by far the better course is,  
14 yes, they have to know, but they are given that information in  
15 their first bill and they are given that information annually.  
16 Yes, I understand the potential that they won't read their  
17 bill, which I would say shame on them, or that they don't read  
18 bill-stuffers. Everybody does it. I can't say that I have  
19 read every word of every bill stuffer that I have ever gotten,  
20 but I actually scan them just to see if there is anything of  
21 curiosity. And I assure you I read my bill.

22 COMMISSIONER BRADLEY: Mr. Chairman.

23 CHAIRMAN BAEZ: Are you done? Okay. Go ahead,  
24 Commissioner Bradley.

25 COMMISSIONER BRADLEY: Yes, a question for Mr. Hatch.



1 Getting back to what I asked staff earlier, my question is  
2 along the line of socialization of costs, of carrying customers  
3 who don't pay their bills. How does AT&T deal with the  
4 socialization of costs as it relates to maintaining its  
5 business structure? I mean, how does AT&T socialize that cost  
6 for customers who don't pay their bills? I mean, is it passed  
7 on to bill paying customers? And I heard what you said about  
8 anticompetitive behavior, but I'm just trying to figure out how  
9 all of this benefits the bill paying customer. And maybe I  
10 shouldn't be asking you, maybe I should be put that out there  
11 for everyone to answer, not just AT&T.

12 MR. HATCH: At some point every carrier, regardless  
13 of who they are, has to socialize the cost, if you will. It  
14 becomes an uncollectible that goes into their accounting system  
15 and just an ordinary amount of that. Now, how you ameliorate  
16 those numbers has to do with how you select customers. In  
17 general, you have the option of doing credit checks on your  
18 customers. You certainly have the option under current rules  
19 of imposing deposits on credit risky customers. However  
20 difficult that may be, it is still an option. You always have  
21 collections issues on the back end. If you are owed enough  
22 money, it is worth it to go pursue that customer for  
23 collections. The issue of this hold on a customer's telephone  
24 number to sort of ensure payment or to create leverage for  
25 easier opportunities for payment, I'm not sure about that. I

1 know that historically the Commission has opposed that. First  
2 with respect to when -- the first number portability that came  
3 around was 800-number portability. There were a lot of issues  
4 then at the time because carriers, particularly because  
5 800-numbers are basically a business issue, carriers that had  
6 invested a lot of time and advertising in 800-numbers, all of a  
7 sudden when number portability became a possibility, they were  
8 going to carriers that were offering them good deals. I mean,  
9 the most famous case way back when was 1-800-Holiday for  
10 Holiday Inn. That was their marketing number and to leave a  
11 carrier and give up that number was just an impossibility for  
12 them. And so when 800 number portability came along, one of  
13 the first issues that came up is if you owe me money, I'm not  
14 going to port your number. And basically the resolution of  
15 that is you can't do that, you can't hold numbers hostage for  
16 that reason.

17 COMMISSIONER BRADLEY: And I just don't -- I  
18 understand that this is the FCC's rule, and I'm having a  
19 problem with the logic behind it, but let me ask staff this  
20 question before I go any further with this. Does this  
21 Commission have the authority under the rules that have been  
22 promulgated by the FCC to address the issue of customers and  
23 number portability who have not paid their bills, or is that  
24 something that --

25 MS. CIBULA: We wouldn't enforce the FCC rules.

1 COMMISSIONER BRADLEY: Beg your pardon?

2 MS. CIBULA: We don't have the authority to enforce  
3 the FCC's rules. We would have to have our own independent  
4 authority to do that.

5 COMMISSIONER BRADLEY: We would have to have what?

6 MS. CIBULA: Our own independent authority to do  
7 that.

8 COMMISSIONER BRADLEY: But do we have the authority?

9 MS. CIBULA: We have the authority in our statutes,  
10 and if we did these rules, then we would have the authority  
11 under our rules. But we don't have -- we can't enforce the FCC  
12 rules.

13 COMMISSIONER BRADLEY: No, my question is, do we have  
14 the authority to deviate from the FCC rule as it relates to  
15 number portability and customers who are not billpayers?

16 MS. CIBULA: No, our rules should be consistent with  
17 the FCC's rules in that regard.

18 COMMISSIONER BRADLEY: And the reason why I'm asking  
19 that question is it would seem to me logically that if  
20 nonbillpayers are not allowed to have number portability, that  
21 we would be solving one problem that encourages companies to  
22 use this process in order to leverage the nonbillpayers to  
23 encourage them to pay before they are allowed to have continued  
24 services. Because, you know, people are smart. I mean, why  
25 not incur a bill of \$4,000 and just switch carriers, local

1 carriers? And maybe I'm not going down the right line, I mean,  
2 down the correct path, because if the FCC has mandated that it  
3 is something that we have to follow, I don't want us to get  
4 outside of --

5 MR. KENNEDY: Could I add something --

6 COMMISSIONER BRADLEY: -- of what we need to do.

7 MR. KENNEDY: -- that might put a little bit more of  
8 a perspective for all of us. During the workshops and what  
9 have you, it is my understanding like the temporary disconnect  
10 status, BellSouth and Verizon currently allow the people to  
11 migrate to another carrier when they are in temporary  
12 disconnect. I am assuming that all the CLECs that are  
13 reselling BellSouth and Verizon services do the same thing. To  
14 my knowledge, Sprint is the only one that doesn't do that.  
15 And, of course, it would follow on that their CLEC resellers  
16 underneath them because of their operating system, which  
17 requires the \$400,000 modification, they would have the same  
18 problem of not being able to allow numbers to port to another  
19 carrier in temporary disconnect. So it is kind of a  
20 one-pronged issue here related to the other carriers.

21 CHAIRMAN BAEZ: Commissioner Deason.

22 COMMISSIONER DEASON: Yes. I understand the debate  
23 about what is the correct policy in regard to this, but I  
24 guess -- and I understand that. The question that I have is  
25 back to the concern about being either consistent with the

1 FCC's policy or not and the fact that it is staff's opinion  
2 that the FCC policy would be preemptive, and we have got to be  
3 consistent. My question, I guess, is a more simple one. If  
4 there is a FCC policy out there and if it is effective, why do  
5 we even have anything in our rule concerning it?

6 MS. CIBULA: The company should be following what the  
7 FCC's policy is, that is correct.

8 COMMISSIONER DEASON: Okay. So either there is a  
9 policy or is there not -- I understand that there has been some  
10 pronouncements from the FCC in regards to wireless portability.  
11 So is there a rule that the FCC, that you can point to that the  
12 FCC says this is the law of the land and all the companies have  
13 to follow it?

14 MS. CIBULA: No, there is no FCC rule that addresses  
15 that.

16 COMMISSIONER DEASON: That is all I need to know.  
17 Thank you.

18 CHAIRMAN BAEZ: And Commissioner Davidson.

19 COMMISSIONER DAVIDSON: That was the same question  
20 that I was going to ask. I understand staff has a desire for  
21 the policy to be interpreted in a certain way, but my position  
22 on this is that -- and I think Sprint's language draws the  
23 right compromise, and I think as a matter of policy the fact  
24 that money is owed doesn't stop the customer from porting their  
25 number. But, with Sprint's language, a company would not be

1 precluded from stopping the porting of that number for an  
2 account that is in temporary disconnect. And I think that  
3 draws a good balance. I mean, we have to balance a customer's  
4 right to port a number with the company's right to collect the  
5 money due. And there is sort of a fine line and maybe that is  
6 where we draw it between monies that are owed, you know, past  
7 due 30 days and a bill that is in temporary disconnect. I see  
8 sort of no entitlement of a customer to port a number where  
9 \$250 is owed to the company and the phone has been  
10 disconnected.

11 CHAIRMAN BAEZ: Rightfully owed.

12 COMMISSIONER DAVIDSON: Rightfully owed. But you  
13 know what? We have got rules in place --

14 CHAIRMAN BAEZ: Undisputed.

15 COMMISSIONER DAVIDSON: -- exactly, to take care of  
16 those issues. I mean, if companies are out there in bad faith  
17 disconnecting their customers, we are going to learn of that, I  
18 suppose.

19 CHAIRMAN BAEZ: Commissioner Jaber, I think I skipped  
20 over you.

21 COMMISSIONER JABER: Just a clean-up question. The  
22 question, Mr. Kennedy, I asked you about putting in the word  
23 lifted in that portion of the rule, are their similar  
24 corrections that you have discovered in the last few days as  
25 you have prepared for this agenda that you need to bring to our

1 attention? I will tell you why I ask. Mr. Hatch, I guess it  
2 was Mr. Hatch, you brought up 800 numbers and portability, and  
3 I have a vague recollection of that whole debate about whether  
4 you port an 800 number or you transfer an 800 number. And it  
5 may not be worth it to correct in this rule, but I did  
6 notice -- and I don't know the section, which is why I'm asking  
7 you open, you know, in an open fashion are there other  
8 corrections that need to be made to this rule?

9 MR. KENNEDY: We had a request from Verizon,  
10 25-24.490 on Page 26 of the rule where we talk about toll free  
11 number portability, and everywhere within that particular  
12 section the word portability would change to a version of  
13 transfer, i.e., transferability. And that would change, I  
14 believe, five times or so in that section. All the word ports  
15 would go to transfer or some variation of that.

16 COMMISSIONER JABER: So you agree with it.

17 MR. KENNEDY: We have no problem with that.

18 COMMISSIONER JABER: But is that the appropriate  
19 terminology?

20 MR. KENNEDY: Yes, because they really don't port.

21 CHAIRMAN BAEZ: So there is -- I'm sorry,  
22 Commissioner Jaber, I just want to get stuff straight. There  
23 are no changes that need to be made to this new language at  
24 this point or is that what you are --

25 MR. KENNEDY: On Page 26 of --

1 CHAIRMAN BAEZ: Yes, I'm looking at it now.

2 MR. KENNEDY: Line 12, we have the word toll-free  
3 number portability, that word would change to transferability.

4 CHAIRMAN BAEZ: Okay.

5 MR. KENNEDY: Line 13, porting would be transferring.  
6 I hope I can see all of these. Line 16, the word port would be  
7 transfer. And there is one more. Line 19, the word porting  
8 would be transferring. And Line 22, the word ported will be  
9 transferred. And then, of course, we have the words temporary  
10 disconnect in here, so however it is decided on that would  
11 affect that part.

12 COMMISSIONER JABER: And those are the only changes  
13 in that regard?

14 MR. KENNEDY: Let me look. We had some questions  
15 about the first paragraph on Page 21, Lines 2 through 4, the  
16 necessity of those words.

17 COMMISSIONER JABER: Where?

18 MR. KENNEDY: Page 21, 25-4.083, the lead  
19 introduction.

20 COMMISSIONER JABER: Oh, I had asked -- you are  
21 referring to something I had asked you earlier?

22 MR. KENNEDY: Right.

23 COMMISSIONER JABER: Yes. I'm not asking you for  
24 those, but I am glad you reminded me. I'm just asking you for  
25 clean-up terminology and corrections --



1 MR. KENNEDY: Let's see.

2 COMMISSIONER JABER: -- in preparation for a motion  
3 or additional discussion.

4 MR. KENNEDY: I believe that was it.

5 COMMISSIONER JABER: But now that you have brought it  
6 up.

7 MR. KENNEDY: Sorry, that will teach me.

8 COMMISSIONER JABER: No, I'm glad you did. Thank  
9 you. My concern related to that introductory paragraph is, do  
10 you all find it repetitive or inconsistent with the definition?

11 MR. KENNEDY: It's not needed. We could take that  
12 sentence out. It adds nothing.

13 COMMISSIONER JABER: For the benefit of the  
14 Commissioners, let me finish my question and you can answer it.  
15 Commissioners, my question to staff in a staff meeting was does  
16 that conflict with the definition of PC freeze in a prior  
17 section, and I guess, Mr. Kennedy, you are saying that it is  
18 just not necessary language anyway.

19 MR. KENNEDY: Right.

20 COMMISSIONER JABER: Thank you.

21 CHAIRMAN BAEZ: Commissioners, any other questions?  
22 Commissioner Bradley.

23 COMMISSIONER BRADLEY: Yes. I'm still looking at  
24 Sprint's language under Subsection 3. It says, "A local  
25 provider shall not disconnect the subscriber's working number

1 unless or whether a balance is owed after receiving a request  
2 from another local provider." And I was just wondering what  
3 the effect might be if additional language was added to include  
4 after a provider -- to include this language, "And the  
5 disconnected customer has made a provision to pay the previous  
6 local carrier." I'm just trying to get at socialization of  
7 costs that these local providers have to implement in order to  
8 meet the cost of doing business that is incurred as a result of  
9 nonpayers. And I'm just putting that out there for discussion.

10 CHAIRMAN BAEZ: Commissioner, that is a question to  
11 the rest of us?

12 COMMISSIONER BRADLEY: Yes.

13 CHAIRMAN BAEZ: Well, I tell you the way I interpret  
14 it. I think what Sprint has proposed sort of draws a line at  
15 some point, and it seems to me that this language actually  
16 creates a -- actually creates more of a duty or a  
17 responsibility on the part of the local provider to be prompt  
18 in applying its disconnection, its temporary disconnect  
19 policies. So it kind of puts a burden on them not to be slack  
20 in how they approach their collections, if you will, in general  
21 terms. And it actually creates a line upon which we can still  
22 serve the interest in having -- I guess Commissioner Davidson  
23 referred to it as sort of an entitlement, and I think that has  
24 limitations. I would agree with him. But, you know, serving  
25 that policy that you shouldn't hold a number hostage and still

1 allow for companies that are prompt and that are consistent and  
2 that are diligent in applying their collection policies to  
3 still maintain whatever entitlement they have to be paid prior  
4 to creating a -- I will call it a runaway situation, you know,  
5 which you refer to that the customers can go ahead and change  
6 service and leave all sorts of bills behind. And it seems to  
7 me that it is a -- I will say it here, it sounds like a pretty  
8 good compromise because of that fact, because it forces the  
9 company to be responsible for its own categorization of these  
10 debts, and still draws that line once the LSR, once the  
11 customer, the customer can still get ahead of it. You know,  
12 they can go ahead and say, I want to change service. And once  
13 that LSR has been delivered to the ILEC or to the underlying  
14 carrier, that's it, their opportunity to have enforced their  
15 collection policies ends. I think it puts both people in a  
16 race, you know, on the offensive, and that is okay with me. I  
17 mean, you know, there is a point at which you say, hey,  
18 company, shame on you, you let this one get away. Don't you  
19 think?

20 COMMISSIONER BRADLEY: And I don't disagree with  
21 that. I understand perfectly what the FCC rule is, but I guess  
22 I'm just sort of still hung up on personal responsibility --

23 CHAIRMAN BAEZ: I agree with you on personal  
24 responsibility.

25 COMMISSIONER BRADLEY: -- and how that cost is

1 socialized. If a customer is not personally responsible for  
2 paying their bills and what the impact is upon the general body  
3 of ratepayers.

4 CHAIRMAN BAEZ: I think there is personal  
5 responsibility on both sides of that equation, as well. I  
6 mean, I'm not sure that -- I am not sure that completely  
7 insulating the companies -- and I say this with the knowledge  
8 that there are collection actions and, you know, credit  
9 impacts, and all the other tools in a company's tool box that  
10 they can use to try and recover their resources or recover the  
11 monies that they are rightly owed. None of that has gone away,  
12 so I see it as sort of a compromise to be able to serve two  
13 masters, if you will.

14 COMMISSIONER BRADLEY: Exactly. And I was trying to  
15 disincentivize local service freezes as a result of nonpayment  
16 of services provided.

17 CHAIRMAN BAEZ: Yes. Commissioner, as well, is that  
18 an amendment that you are requesting? I mean, I guess I am at  
19 a loss in a parliamentary sense as to how to deal with that.

20 COMMISSIONER BRADLEY: Yes. I just I wanted to float  
21 that out there and see what the reaction might be. I know  
22 there are greater minds than me up here as it relates to some  
23 of these positions.

24 COMMISSIONER DAVIDSON: If I can step in, I will tell  
25 you where I am on this. I philosophically agree 100 percent

1 with you, Commissioner Bradley. I mean, I've got my own sort  
2 of issues with porting requirements. I understand on the one  
3 hand that -- especially I think for business customers that  
4 maybe having a specific number matters. But just for me and  
5 from my own perspective, not that this is relevant, I just  
6 don't care about my number. My cell phone number could change,  
7 my Vonage number could change, my eFax could change, I just  
8 don't care. I think this whole portability issue is one that  
9 has imposed a great cost on the industry.

10           The other side is that folks want their numbers and  
11 the duty sort of applies to all local carriers, the big ones,  
12 the small ones, the ILECs, and the CLECs. And I think, I mean,  
13 I share all of your concerns, and for me the Sprint proposal  
14 sort of draws the bright line. I think given the federal  
15 policy -- and, you know, I adhere to Commissioner Deason's view  
16 that we always follow what the FCC does and says, and we do  
17 that to the letter. But, the FCC has made pretty clear that we  
18 can't -- that numbers cannot be held hostage, even if certain  
19 amounts are due. So, the Sprint proposal works for me in the  
20 sense that the company does have the right to put a phone into  
21 a temporary disconnect status, and they can do that according  
22 to its own policies whenever certain amounts are due. And I  
23 agree with Chairman Baez that they need to be vigilant in  
24 enforcing. And they can really do that up to the point that a  
25 local service request change is made. But once company two

1 comes in and says, let's switch, they can't do that. So it  
2 strikes the right line. And so while I philosophically agree  
3 wholeheartedly with you on the socialization of cost issue, I  
4 think sort of given the federal policy we can't quite probably  
5 go as far as that. So that is where I am on the issue.

6 COMMISSIONER DEASON: Well, let me just say since we  
7 all know that Commissioner Davidson believes that we should  
8 regulate every type of service and technology to the fullest  
9 extent possible, I am in agreement with what he says.

10 COMMISSIONER BRADLEY: Well, is your statement  
11 tantamount to a suggestion that we use the Sprint language as  
12 an amendment, or is that just discussion?

13 COMMISSIONER DAVIDSON: Well, whenever the Chairman  
14 is at the point of accepting motions --

15 CHAIRMAN BAEZ: I think we are going to get an  
16 opportunity to entertain -- and, again, there has been several  
17 proposed changes on the part of the companies that haven't  
18 really been discussed at least, and I am hoping we will be able  
19 to get all of them and massage them into one motion for  
20 efficiency sake. But, yes, I think at the appropriate time we  
21 will probably take up -- I mean, you have heard at least two or  
22 three Commissioners --

23 COMMISSIONER DEASON: Let me just say quickly, in all  
24 seriousness I am in agreement with what Commissioner Davidson  
25 said. I think that the Sprint language does draw a balance,

1 and I think it does promote personal responsibility. But also  
2 I think it puts some responsibility on the carrier to make sure  
3 that they are abiding by their own internal procedures when it  
4 comes to making decisions about imposing a temporary  
5 disconnect. And I would not want there to be -- I would not  
6 want there to be a request for a change in service for that to  
7 be the trigger to impose a temporary disconnect. It should not  
8 be the trigger, it should be an independent management decision  
9 as to when and under what circumstances you impose a temporary  
10 disconnect.

11 CHAIRMAN BAEZ: And I think that this language at  
12 least for me keeps that under control. You know, you have a  
13 business to run and have to -- I'm sorry.

14 COMMISSIONER JABER: Mr. Kennedy is trying to tell us  
15 something.

16 CHAIRMAN BAEZ: Oh. Forgive me, Mr. Kennedy.

17 MR. KENNEDY: Just to clarify, the Sprint language  
18 taking out temporary disconnect, if that were to go out of the  
19 rule, the number will not be ported.

20 CHAIRMAN BAEZ: I don't think we -- I think what we  
21 were talking about is Sub 3 on .082 at this point.

22 MR. KENNEDY: Okay.

23 CHAIRMAN BAEZ: And, Commissioners --

24 COMMISSIONER JABER: Well, I think he -- I'm sorry,  
25 Mr. Chairman, I know you are trying to move us forward. I

1 think what Mr. Kennedy is talking about is Paragraph 2,  
2 although I don't understand what Mr. Kennedy said.

3 MR. KENNEDY: Right. A number in temporary  
4 disconnect, if that is taken out, will be not be ported. The  
5 customer will lose the telephone number.

6 COMMISSIONER DAVIDSON: I understand, and that is my  
7 intent.

8 CHAIRMAN BAEZ: That is a fair -- I think in the  
9 context of the discussion that we just had, I think that is  
10 clear.

11 COMMISSIONER BRADLEY: Well, Mr. Chairman, just to  
12 clear it up in my mind. What is the effect upon the rule that  
13 staff has suggested if Sprint's language is included? Does it  
14 have an adverse --

15 MR. KENNEDY: Adverse because they would lose their  
16 telephone number once they are in temporary disconnect statues.

17 COMMISSIONER DAVIDSON: The nonpaying customer.

18 COMMISSIONER BRADLEY: The nonpaying customer.

19 MR. KENNEDY: The nonpaying customer. If the  
20 customer has paid, I am assuming that we would investigate the  
21 complaint and get them turned back on if that is the issue.

22 COMMISSIONER BRADLEY: That is acceptable then to me.

23 CHAIRMAN BAEZ: Okay.

24 COMMISSIONER DAVIDSON: Chairman, I was going to  
25 say --



1           CHAIRMAN BAEZ: I'm sorry, my peripheral vision is  
2 off today.

3           COMMISSIONER DAVIDSON: I would suggest because there  
4 are lots of issues out there, and we all probably have sort of  
5 different views, or we each have sort of issues that are  
6 probably more important or less important, or maybe they are  
7 all important, but there are lots of them, so I would propose  
8 that we go in a sense sort of topic-by-topic, maybe, that has  
9 been addressed. And on this specific topic on the issue of the  
10 PC, on the issue of the number portability proposed changes to  
11 Rule 25-4.082 only at this point, I'm not addressing the  
12 definitional section, I would move that the language be  
13 modified to reflect Sprint's proposed changes to 25-4.082 in  
14 their entirety.

15           CHAIRMAN BAEZ: Okay. And before I present the  
16 motion to the rest of the Commissioners, I want to quickly poll  
17 the Commissioners. Are the rest of you comfortable with trying  
18 to identify at least the changes that have been proposed at the  
19 bench and get them out of the way so that we can get some  
20 semblance of a whole text to then go ahead and adopt? Does  
21 that sound appropriate and are the rest of the Commissioners  
22 comfortable with it? Very well.

23           Then we have a motion on changes to Section 25-4.082,  
24 and Commissioner Davidson's motion is to adopt those proposed  
25 changes offered by Sprint in their entirety. That would, for

1 clarity's sake, include changes to that Subsection 2, the  
2 words, "or a number in temporary disconnect status," and also  
3 changes to Subsection 3, adding the words, "regardless of  
4 whether the balance is owed," after the words, "working  
5 number," in the first sentence, and striking the words, "or  
6 beginning six months after the effective date of this rule  
7 block of porting a number in temporary disconnect status."  
8 Those words that I just poorly repeated are deleted. But you  
9 have it in front of you. Is there a second on that motion?

10 COMMISSIONER BRADLEY: Second.

11 CHAIRMAN BAEZ: There is a second. All those in  
12 favor say aye. All those nay?

13 (Unanimous affirmative vote.)

14 CHAIRMAN BAEZ: Okay. Show that language approved  
15 and incorporated into the text that we will later accept or  
16 deny. The next one that I -- and, again, you all are going to  
17 have to help me, but I think the next one that we have,  
18 Commissioner Davidson, you had maybe hinted at moving deletion  
19 of some language in the actual definition of temporary  
20 disconnect, and perhaps that is appropriate to take up now.

21 Commissioners, I am on Page 19 of Attachment A. That  
22 would be Sub 53, the definition of temporary disconnect.

23 COMMISSIONER DAVIDSON: Thank you, Chairman. On that  
24 I would move deletion of Paragraph 53. Or alternatively, if an  
25 alternative motion was presented, I would support that that

1 would remove the ten-day -- any time period so that the  
2 definition provided a disruption of telephone service prior to  
3 permanent disconnect. But at this point I would move deletion  
4 of 53.

5 COMMISSIONER JABER: Commissioner Davidson, I think I  
6 can support that, or perhaps provide an alternative. Let me  
7 delve into -- in light of how we just approved the prior rule  
8 section with Sprint's language, why do we need a definition?

9 MS. CIBULA: We don't need that anymore.

10 CHAIRMAN BAEZ: Very well.

11 COMMISSIONER JABER: So it would be appropriate to  
12 completely delete Paragraph 53.

13 MS. CIBULA: Yes, it would.

14 COMMISSIONER JABER: I can second your motion.

15 CHAIRMAN BAEZ: There is a motion and a second to  
16 delete Subsection 53, the definition of temporary disconnect.  
17 All those in favor say aye.

18 COMMISSIONER JABER: Aye.

19 COMMISSIONER DAVIDSON: Aye.

20 COMMISSIONER BRADLEY: Aye.

21 COMMISSIONER DEASON: I'm sorry, just --

22 CHAIRMAN BAEZ: I'm sorry, Commissioner Deason.  
23 Let's back up.

24 COMMISSIONER DEASON: There is a reference to  
25 temporary disconnect on the toll free number transferability.

1 Is that a problem or not?

2 MS. CIBULA: I thought once we got to that, that  
3 might be changed, as well.

4 COMMISSIONER DEASON: Okay.

5 COMMISSIONER JABER: That was my assumption,  
6 Commissioner Deason.

7 CHAIRMAN BAEZ: There should be fallout. There are  
8 fallout changes to be consistent. And I think if we can back  
9 it up for a second and have that be part of the motion. Is  
10 that necessary?

11 COMMISSIONER DAVIDSON: Well, I am wondering -- and  
12 that is on Page 26 -- that language would be modified to  
13 provide the serving IXC shall not cause a toll free number that  
14 is in disconnect status to be reassigned, transferred, or made  
15 otherwise unavailable. So that would -- and I guess we need  
16 input of staff on that. I mean, if you are covering --

17 COMMISSIONER BRADLEY: Where is that language, Page  
18 26?

19 COMMISSIONER JABER: Page 26, Paragraph --

20 COMMISSIONER DAVIDSON: Maybe let that come up  
21 separately and address that.

22 CHAIRMAN BAEZ: Let's let that come up separately for  
23 the moment. So we have Section 53 taken care of. The next  
24 change -- and, Commissioners, I'm trying to go in order here as  
25 I see them. The next change is one that I guess was suggested

1 by Commissioner Jaber, is a deletion of those first three lines  
2 on Section 4.083.

3 COMMISSIONER JABER: Yes. That would be my motion.

4 COMMISSIONER DAVIDSON: What lines was that again?  
5 I'm sorry.

6 CHAIRMAN BAEZ: That would be Page 21, Lines 2, 3,  
7 and 4. To try and not create an inconsistency, I guess she  
8 stated to the actual definition of what a PC freeze is, and I  
9 think staff has already assented to the fact that that language  
10 is unnecessary. So there is a motion to delete Lines 2 through  
11 4 on Page 21. Is there a second?

12 COMMISSIONER DEASON: Second.

13 CHAIRMAN BAEZ: A motion and a second. All those in  
14 favor say aye.

15 (Unanimous affirmative vote.)

16 CHAIRMAN BAEZ: Show the motion approved, the  
17 language is deleted. The next one I have is on Line 5. And,  
18 Commissioner Jaber, I'm sorry, I don't know if it is the entire  
19 language, but the proposed change that I have is after the  
20 words shall not be imposed, and then you have the addition of  
21 or lifted, is that --

22 COMMISSIONER JABER: That was my word, but we need to  
23 get from staff whether that is the appropriate term or not. Is  
24 it technically correct to say removed, Mr. Kennedy, or is  
25 lifted the --

1 MR. KENNEDY: Either one of them is good in my  
2 opinion. It could be lifted or removed. We thought removed  
3 would be a good word.

4 COMMISSIONER JABER: Then my motion would be to  
5 modify Line 5, Mr. Chairman, to read, "A PC freeze shall not be  
6 imposed or removed on a subscriber's account without the  
7 subscriber's authorization."

8 CHAIRMAN BAEZ: Very well. And in light of that,  
9 Commissioners, do you have any questions or discussion that you  
10 would like to add at this point? We have a motion. Is there a  
11 second?

12 COMMISSIONER DAVIDSON: Second.

13 CHAIRMAN BAEZ: A motion and a second. All those in  
14 favor say aye.

15 (Unanimous affirmative vote.)

16 CHAIRMAN BAEZ: Show the changes to Subsection 1 of  
17 .083 adopted. The next change that I have proposed is on Sub  
18 5, and that would be Verizon's suggestion on the subject of the  
19 information on PC freezes at the initiation of service. And I  
20 know that there was a lot of discussion and questions on that,  
21 Commissioners.

22 COMMISSIONER DAVIDSON: Can we discuss this one for a  
23 second before we get to a motion?

24 CHAIRMAN BAEZ: Absolutely.

25 COMMISSIONER DAVIDSON: My view of the rule is that

1 as drafted it would cover Verizon's concerns in those instances  
2 where a new customer actually has concerns about slamming and  
3 asks about those. Because the rule provides that from  
4 informing a subscriber who contacts the local provider with  
5 concerns about slamming about the availability of a PC freeze.  
6 So if the customer is in communications with a local provider,  
7 and says, you know what, I want to make sure that I don't just  
8 get automatically transferred somehow. I think the local  
9 provider can address that. So as I sit here, I agree with both  
10 you, Chairman, and Commissioner Deason that, well, why not be  
11 able to just address this up front as a service.

12 But on the other hand, we also have a policy of not  
13 sort of marketing and inducing customers to change. So I think  
14 the rule allows Verizon to do what they want to do, but I just  
15 wanted to throw those comments out there for discussion  
16 purposes. I don't know quite where I am on this issue.

17 CHAIRMAN BAEZ: And, again, at the risk of repeating  
18 myself, I guess the policy behind it, that of educating the  
19 consumer as much as possible, I think that that is -- you know,  
20 an educated consumer is critical to having, you know, a good  
21 competitive market work properly. So I cannot argue with the  
22 policy drivers of Verizon's suggested language.

23 My discomfort, and I hope you all understand, comes  
24 from the fact that this is not like, not like the dynamic that  
25 takes place upon initiating service with just kind of checking

1 the boxes. Well, how do you want your service to look like.  
2 This is a great protection for consumers, and I would urge any  
3 consumer that decides to be educated to take it up if they see  
4 that as something that can help them avoid the worser portions  
5 of a competitive market.

6 But having said that, I think this is one of those  
7 things that in my mind it is the burden of the consumer to  
8 really get educated. And as I had alluded to before, perhaps  
9 there are other alternatives to educating the consumer than in  
10 a situation -- because at the end of the day this service  
11 really is contrary to the free movement of clients. And it  
12 should in all cases be a consumer's decision to do it, a  
13 customer's decision to do it, without even any innocent  
14 prodding. I guess that is really what it boils down to. I  
15 think we have got to try and avoid those instances. Anyway,  
16 that is where I am at. So I guess all that said, I wouldn't  
17 support these changes in particular. That is where I am,  
18 Commissioners.

19 COMMISSIONER DAVIDSON: And I think -- and  
20 procedurally the changes would have to be moved before they  
21 would be that, so if somebody has --

22 CHAIRMAN BAEZ: And if you want to move to another  
23 subject, yes. Either somebody has a motion on the language or  
24 we can just move on to another subject.

25 COMMISSIONER DEASON: I would move adoption of the



1 Verizon proposed language for Subsection 5.

2 CHAIRMAN BAEZ: There is a motion. Is there a  
3 second.

4 COMMISSIONER BRADLEY: Second.

5 CHAIRMAN BAEZ: A motion and a second. All those in  
6 favor say aye.

7 COMMISSIONER BRADLEY: Aye.

8 COMMISSIONER DEASON: Aye.

9 CHAIRMAN BAEZ: All those nay.

10 COMMISSIONER JABER: Nay.

11 CHAIRMAN BAEZ: Nay.

12 Commissioner Davidson, can I loan you a quarter?

13 COMMISSIONER BRADLEY: Well, let's back up here a  
14 minute, Mr. Chairman, and let's find out what the concern is  
15 that resulted in a nay.

16 COMMISSIONER DAVIDSON: Well, and you know what, let  
17 me just -- let me cast my vote on this nay.

18 CHAIRMAN BAEZ: Okay. The motion fails, a 3-to-2  
19 vote. Commissioner Bradley, I'm sorry, I guess when I went on  
20 my long -- the second of my long rants on this it was to try  
21 and let you all know that I have concerns because this is one  
22 of those situations where the customer really doesn't have a  
23 choice who it takes this particular service from.

24 It is the company, in fact, that is suggesting that  
25 they take it up as the only one that can provide that freeze at

1 that moment under those circumstances, and to me that creates a  
2 situation that because these PC freezes are contrary to the  
3 free movement of customers, it should be something that a  
4 customer chooses and not something that should be initiated in  
5 any way by a company that could benefit. And I'm not saying  
6 that they are doing it consciously or anything else, but it  
7 just creates kind of a -- I just don't feel right about it is  
8 the bottom line.

9 COMMISSIONER BRADLEY: Well, you know, with that  
10 further explanation, I need to -- I will change my vote to nay  
11 also.

12 COMMISSIONER DAVIDSON: And I will tell you where I  
13 am on this, and I sort of have to make my Sprint comment. I do  
14 feel like Doctor Jekyll and Mr. Hyde on this one. And that is  
15 a joke, of course. Hopefully Mr. Rehwinkel is not here. He is  
16 probably tired of hearing that. But I was torn, sort of, on  
17 the issues; because I see both sides. And as I stated, my nay  
18 vote, sort of, is based on the view that the rule allows a  
19 local provider, whoever that local provider is, to address this  
20 topic when the customer expresses concerns about slamming, even  
21 if it is at that initial -- in that initial conversation. And  
22 I think in my view the right balance between sort of allowing  
23 that when a customer has concerns and not encouraging companies  
24 to go out and really, sort of, market and induce subscribers to  
25 this. So --

1 CHAIRMAN BAEZ: And that is what it was for me.

2 COMMISSIONER DEASON: At some point I've got to say  
3 something, so just keep on --

4 COMMISSIONER BRADLEY: I need to back up a little bit  
5 here because I did second the motion.

6 CHAIRMAN BAEZ: Yes.

7 COMMISSIONER BRADLEY: And procedurally what I would  
8 respectfully request is that the Chairman allow me to withdraw  
9 my second, which means that that eliminates the need for a  
10 vote.

11 CHAIRMAN BAEZ: Oh, Lord.

12 COMMISSIONER BRADLEY: That means that the motion  
13 dies for lack of a second.

14 COMMISSIONER JABER: I have something even more  
15 important than everything you all have to say. May we have a  
16 five-minute break?

17 CHAIRMAN BAEZ: Yes. And I was going to suggest so  
18 that we can sort this bowl of spaghetti out. And we will come  
19 back and straighten it out procedurally.

20 Thank you, Commissioner.

21 (Recess.)

22 CHAIRMAN BAEZ: Let's go back on the record.

23 Commissioners, first of all, I want to start off by  
24 apologizing, because I think everything got a little too  
25 accelerated. I would like to entertain, because I think one of

1 our Commissioners did not get his due process, and I mean that  
2 with no joke intended. I think it is important for all of us  
3 to get our say, as usual. So, to those Commissioners that  
4 voted in the nay on the prevailing side, I would respectfully  
5 request to entertain a motion for reconsideration so that we  
6 can open up this discussion yet again. And let's back out of  
7 it gracefully, and then let's do this right so that everyone  
8 can get their piece on the record.

9 COMMISSIONER JABER: Going to the restroom was  
10 graceful enough for you? It would be my pleasure to move for  
11 reconsideration.

12 CHAIRMAN BAEZ: I would thank Commissioner Jaber for  
13 going to the restroom, then, as well. But there is a motion  
14 for reconsideration?

15 COMMISSIONER JABER: Absolutely.

16 COMMISSIONER DAVIDSON: Do we need a second, though?  
17 I'm torn. No, I'm kidding. Second.

18 CHAIRMAN BAEZ: There is a motion and a second. All  
19 those in favor say aye.

20 (Unanimous affirmative vote.)

21 CHAIRMAN BAEZ: Thank you. And I will note for the  
22 record that that was a unanimous vote. Now, there is no motion  
23 before us at this point, am I correct? On reconsideration  
24 there is no motion before us, no.

25 MR. MELSON: I believe the motion is still before

1 you, but I'm not a good enough parliamentarian. I frankly am  
2 not sure, Commissioner.

3 CHAIRMAN BAEZ: Well, I am going to exercise poetic  
4 license and declare that there is no motion before us. And if  
5 anybody wants to take me up on that, I dare them. And so now  
6 --

7 (Laughter.)

8 COMMISSIONER JABER: We will have to go to the  
9 restroom.

10 CHAIRMAN BAEZ: You will have to go to the restroom  
11 to do it.

12 COMMISSIONER BRADLEY: As the chair, I think you have  
13 that prerogative to allow for further discussion and  
14 clarification.

15 CHAIRMAN BAEZ: With your encouragement, I will take  
16 you up on it. Now we are officially on questions and comments,  
17 Commissioners. We are discussing proposed Verizon changes to  
18 Subsection 5 of Rule 25-4.083. Specifically, the subject of  
19 the changes is to allow the underlying carrier to discuss upon  
20 the initiation of services, to present the availability of the  
21 PC freeze.

22 And, Commissioner Deason.

23 COMMISSIONER DEASON: Thank you. Mr. Chairman, I  
24 believe it is important to have a discussion. Perhaps I was  
25 too quick to make a motion, and I know it was quick to be

1 seconded and then voted down.

2 CHAIRMAN BAEZ: It never happened, Commissioner.

3 COMMISSIONER DEASON: But I want the opportunity to  
4 at least explain why I originally made the motion, and then I  
5 may at some point renew that motion and then perhaps have it  
6 voted down again. And that's fine, that is no problem. But I  
7 do want some more in-depth discussion.

8 The language as it exists now to me is somewhat vague  
9 in that it does not prohibit, nor does it specifically allow  
10 the type communication which Verizon seeks to include. They  
11 want to be able -- as I understand their concern is that when a  
12 new customer calls to initiate service that it would be within  
13 proper protocol for the service representative to indicate  
14 there is an option for a local service freeze.

15 And that customer at that point could either decline,  
16 or accept, or ask for further information. And the customer  
17 service representative would be free to explain what it does,  
18 and how it works, and how it could be of benefit or perhaps a  
19 detriment to the customer's own unique situation.

20 The language that staff recommends does not -- the  
21 way it read it, it doesn't prohibit that. But I think that to  
22 Verizon's credit they want it out in the open as to whether it  
23 is permissive or not permissive to engage in that activity. I  
24 think it is the best policy to be specific and indicate that we  
25 would allow that particular activity for this reason, and if --

1 given the discussion we have had today, it could be interpreted  
2 if we just adopt the language that that is actually language  
3 that prohibits, it doesn't say it, but could be. Given the  
4 discussion we have had today, it could be interpreted by  
5 someone that that is the language, the protocol which Verizon  
6 seeks would be prohibited. And I think that is a change of  
7 policy that I think we need to think about very seriously.

8           What we are saying is that we have a policy promoting  
9 competition which means options and choices to customers, but  
10 we are saying do not inform a customer of their option to have  
11 or not have a certain service. Don't tell them about it.  
12 Local carriers, we prohibit you from telling customers they  
13 have an option. To me that is contrary to the very essence of  
14 what competition is all about.

15           You inform customers of their options. If they are  
16 uneducated, they ask questions, and they make a decision. That  
17 is good. We are deviating from that and I think that is wrong.  
18 And that was the reason I made the motion.

19           CHAIRMAN BAEZ: Go ahead, Commissioner Bradley.

20           COMMISSIONER BRADLEY: No.

21           CHAIRMAN BAEZ: No, go ahead, please. I will reserve  
22 my time.

23           COMMISSIONER BRADLEY: And I guess what -- after  
24 giving further consideration to the language, it says a local  
25 provider is not prohibited, however, from providing a

1 subscriber who contacts a local provider with concerns about  
2 slamming about the availability of the PC freeze. But then up  
3 top it says a local provider shall not solicit, market, or  
4 induce subscribers to request a PC freeze. And that creates  
5 some ambiguity on my part. The language seems to be somewhat  
6 in conflict, and it seems to give protection in one instance  
7 but nonprotection in another. Well, and I don't disagree with  
8 Commissioner Deason, his explanation is perfectly logical.

9           COMMISSIONER DEASON: Maybe I can ask a question. If  
10 we adopt the language as proposed by staff, what does that mean  
11 in relation to a practice of a local company simply asking when  
12 they are filling out the form, you know, do you want calling  
13 waiting or not; I mean, do you want a PC freeze? I mean, does  
14 that prevent them from asking that question? Is that what this  
15 language means?

16           COMMISSIONER DAVIDSON: I think, and based on the  
17 discussion here, if I may, Mr. Chairman, I think -- you know, I  
18 don't know what I think. But I will tell you I do think, as  
19 you discussed that, and you made a number of -- for me a number  
20 of persuasive points, so for me the goal is how to reconcile  
21 the concern with educating consumers of their options with  
22 regard to slamming, but not soliciting, marketing, inducing  
23 subscribers to request a PC freeze.

24           So as you were talking, I do think that there is an  
25 ambiguity in this language that somehow needs to be addressed.



1 And the first sentence I agree wholeheartedly with, "The local  
2 provider shall not solicit, market, or induce subscribers to  
3 request a PC freeze. And, you know, where is the line between  
4 just letting someone know a feature is there and prohibiting  
5 the marketing of these PC freezes, which I agree with Chairman  
6 Baez that this is something that sort of hinders the free flow  
7 of customers changing from provider to provider.

8 My main concern at this point, and it may not be the  
9 only one, is getting clear language so that any local provider,  
10 CLEC or ILEC, can communicate options regarding PC freezes when  
11 a customer has concerns about slamming. And maybe now we are  
12 nuancing and getting into really sort of micromanaging how this  
13 is done. But, again, the concern is even if it is the first  
14 communication that a local provider has with a customer, when  
15 the customer says, you know what, how do I know I'm not going  
16 to be switched? I want to make sure that I'm not, you know,  
17 carriers are changed.

18 At that point, Verizon, FDN, AT&T, if it is a local  
19 provider, can say, listen, we can put a PC freeze on this and  
20 this will address that concern, don't worry. But I think that  
21 doesn't necessarily get to the question you raised, because  
22 your concern is that, hey, this is just a feature, and we have  
23 a goal of educating customers, and there is nothing wrong with  
24 just telling a customer up front, you can get call waiting, you  
25 can get a PC freeze, you can get call forwarding, you can get

1 call answering. And you are right, that is a policy that we  
2 have to -- we'll have to resolve.

3 COMMISSIONER JABER: Chairman Baez.

4 CHAIRMAN BAEZ: Go ahead, Commissioner.

5 COMMISSIONER JABER: Commissioner Bradley asked a  
6 very good question before we broke with regard to the nay  
7 votes. You remember you asked can we have some more feedback  
8 on those nay votes, and I didn't get a chance to answer his  
9 question, and it seems appropriate now.

10 I am not going to support the Verizon language. Not  
11 because of the policy; the fact is I don't know enough about  
12 their proposed language. The reason I voted nay initially and  
13 will not support the language now is really for the simple fact  
14 that there has been a workshop process, and I sense both in  
15 individual meetings and today that there has been some  
16 consensus reached on major portions of this rule, and I just  
17 didn't want to upset the apple cart. To the degree the rule  
18 could go forward as it was, I wanted it to do so. That was the  
19 only reason I wasn't supporting the proposed language and still  
20 won't.

21 I feel like it creates more questions today than we  
22 have got time to answer, frankly. It may be a good policy at  
23 the end of the day. I may be completely wrong at the end of  
24 the day, but it is just for the simple fact that there has been  
25 a workshop, there was language vetted. And for the same reason

1 you will hear me talk later on when AT&T's language gets  
2 discussed, I have problems with introducing language at the --  
3 not at the last minute in a derogatory way, but in a moment  
4 when we are ready to vote on what has appeared thus far to be a  
5 consensus. And I would encourage parties to continue to work  
6 out the language.

7           But, Chairman Baez, if I could also ask for your  
8 indulgence. Commissioner Deason asked staff a question, and I  
9 am very interested in the answer. He asked you if this  
10 language would go forward, how do you interpret a company --  
11 are they prohibited -- I don't want to put words in your mouth,  
12 Commissioner Deason -- but are they prohibited from discussing  
13 the PC freeze as an option under your proposed language?

14           MR. KENNEDY: Yes. And maybe I can help out on this  
15 somewhat.

16           COMMISSIONER DAVIDSON: Unless you want to hear, I  
17 mean, that sort of answers it.

18           COMMISSIONER JABER: It would help.

19           COMMISSIONER DAVIDSON: Well, he said yes.

20           COMMISSIONER JABER: I know, Commissioner Davidson,  
21 but it would help me. I don't know if it would help the rest  
22 of the Commissioners, but I would certainly be interested in  
23 hearing it.

24           COMMISSIONER BRADLEY: Before he answers that I would  
25 like to ask him a question.

1           COMMISSIONER JABER: Can I have a response to my  
2 question?

3           CHAIRMAN BAEZ: Hold on. Mr. Kennedy, you did not  
4 give a complete answer, complete your answer so that other  
5 follow-up questions can get asked.

6           MR. KENNEDY: Well, the answer was yes to that,  
7 because basically this was brought to the table by the CLECs  
8 who were concerned about LECs marketing PC freezes. And just  
9 as an, oh, by the way, when all of this came up we went to the  
10 websites of the LECs, I had bills for two years for each of the  
11 LECs, looked at what they put in their bill, and the only time  
12 you really see anything about PC freezes from the LECs was in  
13 that bill on their websites, advertisements. You never saw  
14 anything about PC freezes at all.

15           COMMISSIONER JABER: And see, Chairman Baez, I don't  
16 know that I agree with that. I don't have anything in front of  
17 me that would lead me to agree with what Mr. Kennedy just said.  
18 And it is that process that I think hasn't been allowed to take  
19 place, unfortunately, with the language Verizon has proposed in  
20 this section, and, frankly, with the new language that AT&T has  
21 proposed in a subsequent session we are going to get to. So,  
22 that is why I'm not going to support it.

23           CHAIRMAN BAEZ: Commissioner Bradley, your question.

24           COMMISSIONER BRADLEY: Yes. My question to staff is  
25 this. Is there maybe compromise or clarifying language that

1 could be substituted for this language to get to the intent a  
2 little bit more clearly, or is this pretty much the only  
3 language that you all can come up with that deals with this  
4 particular issue?

5 COMMISSIONER DAVIDSON: I will jump in here. I know  
6 you want an answer from staff. I've got proposed language on  
7 this provision, also, but staff.

8 MR. KENNEDY: Based on -- I suspect we spent at least  
9 an hour or two at workshop on discussing these, you know, the  
10 marketing of a PC freeze, and this was the consensus the  
11 parties all came up with at that time, so we have no  
12 alternative at this point.

13 CHAIRMAN BAEZ: Commissioner Davidson.

14 COMMISSIONER DAVIDSON: Chairman, I would like to  
15 just throw out language not in the form of a motion, but just  
16 in the form of language for consideration --

17 (Simultaneous conversation.)

18 COMMISSIONER DAVIDSON: -- addresses my specific  
19 concern, and hopefully addresses the concerns that local  
20 providers might have. The first sentence would remain the same  
21 in Subsection 5. The second sentence would be modified to  
22 read, "A local provider is not prohibited, however, from  
23 informing an existing or potentially new subscriber who  
24 expresses concerns about slamming about the availability of a  
25 PC freeze." And I know that that doesn't address sort of the

1 fundamental issue raised by Commissioner Deason, but I think it  
2 does make clear that a company can discuss PC freezes when the  
3 existing or new subscriber expresses concerns about slamming.  
4 And I think that is fair.

5 I mean, if I was changing customers or changing  
6 providers and had a question about, you know, well, how am I  
7 going to be switched? How am I certain that I'm not going to  
8 be switched again and charged? And the company needs to be  
9 clear -- the company needs to be free to address this issue  
10 with me, and that proposed language is proposed to make clear  
11 that they have got that right. And, again, I know it doesn't  
12 get to all of Commissioner Deason's concern.

13 COMMISSIONER JABER: Read it again, Commissioner  
14 Davidson. You would leave the first sentence the way it is?

15 COMMISSIONER DAVIDSON: The first sentence the way it  
16 is. A local provider is not provided, however, from -- "a  
17 local provided is not prohibited, however, from informing an  
18 existing or potential new subscriber who expresses concerns  
19 about slamming about the availability of a PC freeze." And,  
20 again, that is just for discussion purposes, not in the form of  
21 a motion yet.

22 COMMISSIONER JABER: Chairman Baez, since it is for  
23 discussion purposes, can I ask Verizon, and I think the other  
24 carrier that expressed a comment in this regard was Mr. Hatch,  
25 AT&T. Mr. Chapkis, since this modifies your original language,

1 does it still capture what -- does the language proposed by  
2 Commissioner Davidson capture what you were trying to achieve?

3 MR. CHAPKIS: No, it does not. My position is  
4 essentially synonomous with the opinions of Commissioner  
5 Davidson.

6 COMMISSIONER JABER: Deason.

7 MR. CHAPKIS: Excuse me, Deason. I very much  
8 apologize.

9 (Inaudible comment.)

10 MR. CHAPKIS: Also good looking. That the  
11 legislature has suggested that carriers must make local PC  
12 freezes and other PC freezes available to customers, and that  
13 it would be paternalistic and anticompetitive to structure the  
14 rule such that consumers were not informed from the best manner  
15 possible about the availability of these rules. If there are  
16 other problems with a PC freeze, I think that it would be best  
17 for this Commission to approach that problem by addressing  
18 those problems directly rather than by keeping the customers in  
19 the dark about the availability of this option.

20 COMMISSIONER JABER: Mr. Hatch.

21 MR. HATCH: The language suggested is better than  
22 what Verizon has proposed, but it still begs the question which  
23 is at the root of our problem. What if a sales representative  
24 says, "Are you concerned about slamming?" Boom. That is the  
25 entree and then he is off on his spiel. Because, oh, should I

1 be concerned about slamming? Well, let me tell you about  
2 slamming. You need a PC freeze to solve your slamming problem.  
3 That is why I am so concerned about the initial entree.

4 COMMISSIONER JABER: Did you express those concerns  
5 in the workshops?

6 MR. HATCH: Yes. We have talked a great --

7 COMMISSIONER JABER: The language that was initially  
8 proposed -- I interrupted you, go ahead.

9 MR. HATCH: Sort of wrapping all of this together,  
10 Commissioner Davidson's point earlier, it's that initial  
11 entree. It is the ability to create the question in the  
12 customer's mind, and that is essentially what marketing does.

13 COMMISSIONER JABER: But when a customer calls a new  
14 provider because the customer has already been slammed, the  
15 opportunity exists today for that conversation to take place.

16 MR. HATCH: Absolutely true. We have no problem with  
17 the customer saying, I want a PC freeze, or I've got a problem  
18 with slamming, what can I could about that. We don't have a  
19 problem with that. And the rule covers that scenario. That is  
20 what that language does. What we don't want is to create a  
21 false sense of I wanna that never existed.

22 COMMISSIONER JABER: Let me go back to my initial --

23 COMMISSIONER BRADLEY: How would you then suggest  
24 that we deal with that false sense of creating that scenario?

25 MR. HATCH: The existing language in the staff's



1 proposed rule actually addresses that scenario. It provides  
2 the opportunity for a customer that says, I have a problem; how  
3 do you fix it? It is clear that that is not prohibited or not  
4 affected by this rule. That was what the second sentence of  
5 that Subsection 5 does. And it is the first piece of  
6 Subsection 5 that, you know, lays the groundwork for it. We  
7 prefer the existing language.

8 CHAIRMAN BAEZ: You still have questions.

9 COMMISSIONER JABER: Commissioner Bradley really got  
10 to it. But how many workshops did you all have? Give me an  
11 idea of how much work you all did.

12 MR. HATCH: I would guess over a two-year period  
13 probably three, at least two or three.

14 COMMISSIONER JABER: All right.

15 CHAIRMAN BAEZ: Commissioner Deason, you said  
16 something that kind of touched something off in my mind, and it  
17 is something I am sadly going to disagree with you on. I think  
18 your implication, and you can stop me if I'm wrong, but I think  
19 your implication in saying, you know, why shouldn't the  
20 consumer be as completely educated as possible about the  
21 services available to him. While I agree with the first part  
22 of that statement, I think that you have lumped together, you  
23 equated the availability of this service, and I'm a little  
24 queasy about that. But the availability of this service to the  
25 same thing as having, you know, a particular long distance

1 provider. Do you want call waiting, do you want other bells  
2 and whistles that are available? And while the balance of that  
3 list is okay with me, because there are, in fact, services that  
4 are available for a fee and so on, this is free ice cream.  
5 Nobody turns it down.

6           And the distinction that I see with that, just so  
7 that you can understand, and, again, maybe I haven't done a  
8 good enough job of saying where I'm coming from, but just so  
9 you can see where I'm coming from a little better is that the  
10 effect of this service, for lack of a better word, creates a  
11 barrier. On the spectrum of barriers, it is probably of the  
12 lowest order, but it is not in the strictest sense of the word  
13 competing because my product is better than your product,  
14 because I offer you voicemail and Company B doesn't. Or  
15 because my system is up and running more often than theirs, you  
16 know, the quality of the service is different, is better, is  
17 worse, and so on.

18           This is a service, again, for lack of a better word,  
19 that it is designed to make it more difficult. By its very  
20 nature it is designed to make it more difficult for customer  
21 service to be switched. And while as a security matter for a  
22 customer that is a good thing, as a competitive matter, in a  
23 general sense, it is not.

24           Now, I may be taking things to extremes here, but  
25 that is the distinction that I'm seeing with this particular

1 service. And it makes me uncomfortable to facilitate the  
2 effect of that service. And, again, not that it is being  
3 employed incorrectly, although there is enough evidence from  
4 what Mr. Kennedy said that there are many, many CLECs involved  
5 in the use of this service as a defensive measure, but that is  
6 not really what I'm talking about. I'm talking about more from  
7 the perspective of creating unintended consequences. And when  
8 the only person, the only provider that can actually provide  
9 the service is the one that is asking the question to the  
10 consumer, do you want free ice cream, that to me -- that gives  
11 me heartburn.

12 COMMISSIONER DAVIDSON: Ice cream gives you  
13 heartburn?

14 CHAIRMAN BAEZ: That is the situation in all candor.

15 COMMISSIONER BRADLEY: Gee, I am allergic to ice  
16 cream, though.

17 CHAIRMAN BAEZ: My apologies to the lactose  
18 intolerant in the crowd. And I guess that is really the  
19 queasiness that I am having.

20 COMMISSIONER DEASON: Can I respond to that?

21 CHAIRMAN BAEZ: Yes, absolutely.

22 COMMISSIONER DEASON: First of all, a lot of the  
23 points you make are good. I guess I would maybe distinguish  
24 one of the comments that you made with this observation, and  
25 there is another observation I want to make. You indicated

1 that this service, if you want to call it that, this option is  
2 different from many of the others. And it is. But you also  
3 said it makes it more difficult for a switch to take place.  
4 Well, it makes it more difficult or else actually prohibits for  
5 there to be an unauthorized switch to take place. It does not  
6 prohibit switches from taking place.

7 CHAIRMAN BAEZ: You're absolutely right.

8 COMMISSIONER DEASON: The customer that chooses a PC,  
9 can just as easily unchoose it and say I'm tired with Carrier  
10 XYZ, I want to switch to ABC. And they can exercise that. So  
11 that point needs to be made. And the other things is that, you  
12 know, you indicate this is a service for which there is no  
13 charge. That's true. We also need to be cognizant of the fact  
14 that this is -- I'm sorry, I'm losing my voice -- we need to be  
15 cognizant that this is a service, if you want to call it a  
16 service, that is mandated by the policymakers of this state in  
17 the form of legislation that says this shall be provided.

18 And what we are saying is, customers, we have a  
19 legislative policy that says that it is in the public interest  
20 of this state to have this service available at no charge, but  
21 don't tell them, don't tell anybody. Now, I know that is an  
22 extreme, because 30 days later there is going to be a notice,  
23 either in a flier or some -- and there may be annual  
24 requirements to put it in the billing in some format that this  
25 is an option available. But if you want to get the word out,

1 let the customers know up front when you have their attention  
2 and they are making informed decisions about what their options  
3 are.

4 To me this is no different than the policy of this  
5 state that says we want to promote universal service and the  
6 way to do that is to promote Lifeline to customers. We spend  
7 millions of dollars promoting Lifeline. Get the word out to  
8 everyone, tell people about it because this is a good service.  
9 This is not a free service; this is a subsidized service. This  
10 is actually money going to the customer in a way. And we  
11 advertise that. But we are saying but when it comes to this,  
12 don't tell anybody about it. An extreme, I know.

13 CHAIRMAN BAEZ: Extreme, extreme.

14 COMMISSIONER DEASON: Don't tell them when they  
15 initiate service.

16 COMMISSIONER DAVIDSON: Chairman.

17 CHAIRMAN BAEZ: Again, I think the effect -- the  
18 effect of Lifeline, and the effect of any other services is not  
19 one that at its root, at its root creates difficulties. And if  
20 it an affirmative act on the part of the customer, then that is  
21 okay with me. And I will go back. I have been trying to  
22 think, I have been wracking my brain all of this time trying to  
23 think back about someone said the word nuance, and that is  
24 precisely what it is. It is a very nuanced situation. I  
25 equate it to -- and I'm sure Commissioner Deason remembers,

1 when I want to say it was like the intraLATA rules. Ms. White  
2 is nodding. Those rules were the most convoluted; you may step  
3 forward with your left foot but not your right, and if the  
4 customer says the magic word, then you can go and launch into  
5 the marketing of your services. I mean, do you see how  
6 complicated that is. And I will tell you it was awkward, it  
7 was complicated, much more complicated than this issue, I will  
8 grant you. But I think the policy behind it was right at the  
9 end of the day, and that is something that I think the  
10 Commission somehow found its way to support the notions of it,  
11 and that, in fact, was keeping information away from a  
12 customer.

13           And I hate to sound paternalistic and saying that  
14 this is for their own good, but I have got to tell you honestly  
15 I'm okay with that. I'm okay with cutting down a particular  
16 mode of information because it is a captive audience and I  
17 think the potential for abuse, but for a negative impact on the  
18 competitive policies that we are trying to promote is possible,  
19 whether it is in an innocent fashion or otherwise, and that is  
20 not something that I am comfortable with creating.

21           And I will tell you getting them notice within 30  
22 days probably beats the whole cycle of whether somebody can be  
23 slammed anyway. So I guess my point to you is I'm pretty  
24 comfortable with the way they get the word out now, and I guess  
25 we can just, you know, disagree.

1           COMMISSIONER DEASON: Yes, I think we are just going  
2 to have to agree to disagree. But one more distinction on what  
3 you said about the captive audience. If it is a captive  
4 audience to that extent -- I'm not sure I agree with that, but  
5 give you the benefit of the doubt and give you that argument --  
6 it is a captive audience to the extent that the customer made a  
7 decision up front when they initiate service either they call  
8 BellSouth or they call AT&T. They have that choice. But then  
9 I guess they have exercised that choice, and then once they  
10 have made that choice perhaps they do become the captive  
11 audience. But they have the choice up front.

12           And I think it would be -- I think it should be a  
13 requirement that if they choose to call AT&T first to get local  
14 service, that AT&T should inform them they have the option of a  
15 PC freeze. Yes, or no, or indifferent, but they have the  
16 option.

17           CHAIRMAN BAEZ: I just think with that, then that is  
18 why -- then you get more conversation on issues like this, why  
19 they should be, whether they should be moved, or if there is an  
20 LSR, and should it be --

21           COMMISSIONER JABER: I'm so glad I don't sit in the  
22 middle of you two anymore.

23           CHAIRMAN BAEZ: You know what, 90 percent, 99.9  
24 percent of what Commissioner Deason has said I agree with. I  
25 just don't agree with his position.

1           COMMISSIONER BRADLEY: And I saw Commissioner Jaber  
2 and Commissioner Davidson looking in the statute book, but my  
3 question is this, has this discussion --

4           (Inaudible.)

5           COMMISSIONER BRADLEY: No. But, you know, earlier I  
6 asked about intent and clarifying language, and my question is  
7 this, I mean, I don't disagree with either of you. And I guess  
8 what we are having a discussion here is how would this language  
9 be interpreted. And what I want to throw out is this, has this  
10 discussion clearly established what the intent of the language  
11 is, which somewhat narrows the interpretive process?

12          CHAIRMAN BAEZ: Well, I will tell you where I'm  
13 coming from. I think the question was asked, and it was asked  
14 of staff. I agree with Mr. Kennedy, I think that the language  
15 as written, even as modified does prohibit the action that  
16 Commissioner Deason was referring to, which is the overt act of  
17 informing, you know, the initiative of informing a customer as  
18 to a service. And I'm okay with that. You know, contrary to  
19 everything I believe, I am okay with that in this instance.  
20 That is really the long and the short of it.

21          COMMISSIONER DAVIDSON: Chairman.

22          CHAIRMAN BAEZ: Go ahead.

23          COMMISSIONER DAVIDSON: I wanted to ask staff a  
24 specific question. Does the legislation specifically provide  
25 that a local carrier make known to the customer the



1 availability of a PC freeze? And I will tell you where I'm  
2 coming from; 364.603, which is the statutory reference cited  
3 for the provision of the rule, provides the Commission shall  
4 adopt rules to prevent the unauthorized changing of a  
5 subscriber's telecommunications service. We have those rules,  
6 they are called slamming rules. My question is am I missing  
7 something? Is there something else in the statute that  
8 specifically requires a local provider to make this PC freeze  
9 availability known to a customer?

10 MS. CIBULA: Not that we are aware of.

11 COMMISSIONER BRADLEY: I think Mr. Melson wanted to  
12 say something.

13 MR. MELSON: Commissioner Davidson, the next sentence  
14 does talk about what those rules shall do. In the middle of  
15 it, they shall provide for the notification to subscribers of  
16 the ability to freeze the subscriber's choice of carriers at no  
17 charge. And we have got the existing rule that has been  
18 referenced several times today that provides that will be done  
19 with the first bill and annually thereafter.

20 COMMISSIONER DAVIDSON: Well, on this I have to agree  
21 with the Chair. I mean, we are sort of in a position of  
22 perpetual nuances and we just have to strike a balance between  
23 fulfilling our statutory mandate, which I believe the rule  
24 does. As Commissioner Jaber noted, it went through -- the  
25 prior rule as well as this rule has gone through a series of

1 workshops. We have to sort of balance that notification to  
2 customers which is being made now with our duty to also not  
3 hinder, and, in fact, promote the competitiveness of markets.

4           So with that I am going to move just my limited  
5 proposaling (phonetic), which -- and again for the record that  
6 would be I would move that we amend Section 5 to provide  
7 clearly that a local provider is not prohibited, however, from  
8 informing an existing or potential new subscriber who expresses  
9 concerns about slamming, about the availability of the PC  
10 freeze. And so I move that, and if a subsequent motion is made  
11 to further modify that if this is accepted, then I guess that  
12 is what will be done. But I would like to make it clear that  
13 carriers can talk about this issue when the customer has  
14 concerns about slamming.

15           CHAIRMAN BAEZ: Commissioners, there is a motion to  
16 modify the existing proposed Subsection 5 by inserting the  
17 words -- again, Commissioner, help me with this, I'm sorry.

18           COMMISSIONER DAVIDSON: The first sentence stays the  
19 same. The second sentence, "A local loop provider is not  
20 prohibited, however, from informing an existing or potential  
21 new subscriber who expresses concerns about slamming about the  
22 availability of a PC freeze."

23           CHAIRMAN BAEZ: And there is a deletion.

24           COMMISSIONER DAVIDSON: Deletion of, "contacts the  
25 local provider."

1           CHAIRMAN BAEZ: Does everybody have that clear, what  
2 he said? There is a motion. Is there a second?

3           COMMISSIONER DEASON: I am going to second the  
4 motion, and I think it is an improvement. It doesn't go  
5 anywhere near as far as I would take it for the reasons that I  
6 have expressed, but I want to express I feel much better having  
7 the debate. And obviously the majority is going to control,  
8 but having the discussion has helped me a lot. And I think we  
9 are all going to perhaps agree to disagree, but I will second  
10 the motion.

11           CHAIRMAN BAEZ: There is a motion and a second on the  
12 amendments to Subsection 5. All of those in favor say aye.

13           COMMISSIONER DAVIDSON: Aye.

14           COMMISSIONER DEASON: Aye.

15           COMMISSIONER BRADLEY: Aye.

16           CHAIRMAN BAEZ: Aye. All those against?

17           COMMISSIONER JABER: Nay. And not because,  
18 Commissioner Davidson, I don't support your language. I think  
19 it is a very good compromise. It is really just for the  
20 reasons articulated earlier. That would be a nay.

21           CHAIRMAN BAEZ: And that would be the failure of  
22 workshopping?

23           COMMISSIONER JABER: Not workshopping this specific  
24 language and giving the opportunity to the parties to reach  
25 consensus language.

1           CHAIRMAN BAEZ: Thank you, Commissioner. Those  
2 changes are made pursuant to a 4-to-1 vote. Moving along with  
3 changes. And, again, I am going to need some help, as well.  
4 The last ones I have are AT&T's alternative language which,  
5 again, I will clarify for the Commissioners. If there is no  
6 intent on adopting that language or any part of it, we don't  
7 need to address it, so that we don't get into proving a  
8 negative situation. But there is proposed changes, or a  
9 proposed addition rather, to Subsection 13 on that same Section  
10 .083.

11           COMMISSIONER JABER: Chairman Baez, in the spirit of  
12 making sure we debate or dialogue on this proposed  
13 modification, which we have not, we have not been able to do  
14 that, I just need clarification on what parties support AT&T's  
15 language and what parties don't, because there have been a  
16 number of proposals by AT&T on Paragraph 13.

17           CHAIRMAN BAEZ: And it was over an hour ago and we  
18 need refreshing our recollections. So if you can, please, kind  
19 of go down the line.

20           MS. WHITE: BellSouth does not support --

21           COMMISSIONER JABER: It has been represented to me --  
22 Ms. White, let me just give you the foundation of why I asked  
23 that question. It has been represented to me through the  
24 rulemaking process that parties initially agreed to the  
25 original language, and then somehow that original language came

1 out of staff's draft proposal. So, I have two questions for  
2 the parties and then staff. Do you still support the original  
3 language, and do you support the alternative language that has  
4 been passed out today?

5 MS. WHITE: Yes, BellSouth could support the original  
6 staff proposed language for Subsection 13. We cannot support  
7 AT&T's proposed alternative language.

8 COMMISSIONER BRADLEY: You said cannot?

9 MS. WHITE: Cannot support AT&T's alternative  
10 language. We could support the original staff language.

11 MR. CHAPKIS: Verizon opposes both the original staff  
12 proposal and AT&T's proposal.

13 COMMISSIONER JABER: And the nature of your  
14 opposition, Mr. Chapkis, if I understood earlier was that you  
15 believe there is a cost to modifying your operational systems  
16 to meet the time line?

17 MR. CHAPKIS: That is correct. In order for us to  
18 comply with staff's initial proposal, it would require us to  
19 spend in excess of \$950,000 to modify our systems.

20 COMMISSIONER JABER: Now, the original language does  
21 not have time lines. But are you suggesting you have that cost  
22 regardless of how long it takes?

23 MR. CHAPKIS: I believe that is the case, yes.

24 COMMISSIONER JABER: I need to understand why.

25 MR. CHAPKIS: I'm going to refer you to Mr. Christian

1 who can expound upon that.

2 MR. CHRISTIAN: Commissioner Jaber, again, it is a  
3 process of system integration and system changes that would  
4 occur. On one hand you have the PC freeze lift process that is  
5 independent of the LSR process. Putting those two together  
6 will cause us to incur the charges of modifying our systems.

7 COMMISSIONER JABER: What goes into putting those  
8 things together?

9 MR. CHRISTIAN: Programming, personnel time.

10 COMMISSIONER JABER: Okay. So the nature of your  
11 costs are programming hours, staff programming hours?

12 MR. CHRISTIAN: Yes, ma'am.

13 COMMISSIONER JABER: So it is not equipment costs?

14 MR. CHRISTIAN: No.

15 COMMISSIONER JABER: It is not software costs?

16 MR. CHRISTIAN: It could be software and personnel  
17 costs.

18 COMMISSIONER JABER: Human resource costs primarily.

19 MR. CHRISTIAN: Primarily.

20 COMMISSIONER JABER: And you think that is how much?

21 MR. CHRISTIAN: I believe it is just under a million  
22 dollars, \$980,000 was the estimate we came up in our SERC.

23 COMMISSIONER JABER: How many people does it take to  
24 facilitate this change?

25 MR. CHRISTIAN: I couldn't tell you that.

1 COMMISSIONER JABER: Well, how could you tell us the  
2 amount?

3 MR. CHRISTIAN: I don't have the SERC in front of me.

4 COMMISSIONER JABER: Well, you know how many people,  
5 you just don't have that information today?

6 MR. CHRISTIAN: Was that in -- I don't have the SERC  
7 in front of me, I just don't recall what the numbers were.

8 COMMISSIONER JABER: Staff, can you help me  
9 understand?

10 MR. CHRISTIAN: We may not have included the  
11 personnel hours in there either, though.

12 COMMISSIONER JABER: And also, staff, was Verizon the  
13 only carrier that commented on the SERC process as it relates  
14 to this language?

15 MR. KENNEDY: The answer to your last question is  
16 yes.

17 COMMISSIONER JABER: Ms. Masterton, while staff is  
18 looking that up for me, so that we don't hold up the process,  
19 do you want to comment?

20 MS. MASTERTON: Sure. Sprint objected to the  
21 original staff language, but the alternative language proposed  
22 by AT&T addresses the concerns that we had with that language.

23 CHAIRMAN BAEZ: Commissioner, I think Mr. Hewitt has  
24 come up. Do you have an answer available?

25 MR. HEWITT: Do you have a question about the number

1 of people at Verizon?

2 COMMISSIONER JABER: My question to Verizon was what  
3 really is the nature of the expense they will incur.

4 MR. HEWITT: They didn't mention the number of  
5 employees required or hours in the SERC, but they talk about  
6 their wholesale and retail systems will require changing,  
7 extensive support system changes. Additional resources and  
8 costs to implement, that are not qualified.

9 COMMISSIONER JABER: I have asked you this before, I  
10 want to digress a little bit. The SERC process, do we search  
11 behind the response? Do you delve into -- as part of  
12 rulemaking do you just take the comments filed in response to  
13 the --

14 MR. HEWITT: We assume they give truthful and honest  
15 answers.

16 COMMISSIONER JABER: I don't mean that they are not  
17 truthful. Do you do a staff data request to ask the question I  
18 just asked? It's less than a million dollars, what are we  
19 talking about in terms of number of employees and manhours?

20 MR. HEWITT: In the data request we do ask that  
21 background material. Sometimes they don't provide that.

22 COMMISSIONER JABER: Was that done in this case?

23 MR. HEWITT: No.

24 COMMISSIONER JABER: So that was not part of the  
25 workshop process. That level of detail did not --



1 MR. HEWITT: In this particular case it wasn't.

2 COMMISSIONER JABER: Okay.

3 MR. CHRISTIAN: Commissioner Jaber, could I expand on  
4 my answer?

5 COMMISSIONER JABER: Sure.

6 MR. CHRISTIAN: One of the major costs here is that  
7 this would require changes to our retail systems as well as our  
8 wholesale systems because of the nature of the PC freeze lift  
9 and the way it flows through our systems. This would require  
10 changes for both our retail customer and our wholesale. And  
11 that change would be a significant amount of manpower and  
12 resources.

13 COMMISSIONER JABER: Mr. Hatch. Ms. McNulty, it is  
14 your language, I'm sorry.

15 CHAIRMAN BAEZ: Mr. Hatch loves the language.

16 MR. HATCH: We love the original better.

17 MR. McNULTY: MCI can support the original language.  
18 With regards to AT&T's alternative language, MCI simply has not  
19 had adequate time to review it.

20 MR. FEIL: FDN can accept the original language with  
21 one proviso, and it leaves a hole that Ms. Sims had mentioned  
22 earlier, and that is if a UNE-P provider has the freeze in  
23 place, the UNE-P provider is the entity that deals directly  
24 with the customer regarding lifting the freeze. But it is the  
25 ILEC that has the freeze logged into its systems. So if the

1 UNE-P provider does not send an order to the ILEC, then when  
2 the customer -- excuse me, when the LSR is submitted it is  
3 still going to be rejected by the ILEC if the UNE-P provider  
4 never submitted the order to the ILEC to begin with.

5 With respect to the alternative language, I think my  
6 comment would probably be the same as what it was before. I am  
7 a little concerned with the disparity between UNE-L and UNE-P,  
8 and would rather have perhaps a less specific guideline for  
9 that differentiation.

10 COMMISSIONER JABER: Mr. Chairman, let me tell you,  
11 all of those responses have been helpful to me for the  
12 original. For the reason I articulated in our previous  
13 discussion, I personally am not going to make a motion to adopt  
14 this language, but because of the fact that I think that it  
15 wasn't given enough attention in the workshop process, and I  
16 don't have the magic answer today in terms of trying to reach  
17 compromise language, so I won't be making that motion.

18 CHAIRMAN BAEZ: Commissioners, other questions or  
19 comments?

20 COMMISSIONER DEASON: I have a question. Refresh my  
21 memory, what was the original language that was proposed and  
22 that was deleted which prompted the new language that we  
23 received today?

24 MR. KENNEDY: The original language reads, "Local  
25 providers shall ensure that the local service request will not

1 be rejected while the local freeze lift request is in process."

2 COMMISSIONER DEASON: How long does the local freeze  
3 lift process normally take?

4 MR. KENNEDY: My understanding is anywhere from 24  
5 hours to 72 hours.

6 COMMISSIONER DEASON: So would it be safe to say that  
7 95 percent of these lifts are completed within 72 hours of  
8 notification by the customer that they desire the freeze to be  
9 lifted?

10 MR. KENNEDY: I think so. I mean, I don't want to  
11 answer for all the LECs on this, but --

12 COMMISSIONER DEASON: I'm trying to understand the  
13 magnitude of the problem here, and in answer to previous  
14 questions, I got the indication that this -- obviously it only  
15 applies to customers that have freezes in place to begin with.  
16 And then I asked some questions and I got the indication, and  
17 it is really a problem when it is a CLEC-to-CLEC change.

18 And I guess the problem -- how big of a problem is  
19 this; and could it simply be solved, Mr. Hatch, and I know this  
20 is not your preferred alternative, but if it is a change from,  
21 say, for example, an MCI customer wants to change to AT&T, and  
22 they have a freeze in place, you just wait 72 hours before you  
23 submit it?

24 MR. HATCH: That is a customer expectation management  
25 problem. We can give you service, but you have got to wait

1 three days for it. I think the question that you are getting  
2 at, Commissioner Deason, is first for us it has been mostly an  
3 ILEC problem. A CLEC to a CLEC transfer is a larger problem,  
4 but we don't have a lot of experience with CLEC-to-CLEC stuff,  
5 mostly because the market is still too new. I'm sure there are  
6 some CLEC-to-CLEC gains and losses, but to our knowledge it is  
7 an ILEC issue for us today. I don't have the statistics or the  
8 numbers to help you on that.

9 COMMISSIONER DEASON: Well, help me here and maybe  
10 BellSouth and Verizon can help, also. BellSouth indicated  
11 there are some systems that are going to come place in July.  
12 I'm not so sure about what Verizon's situation is, but that if  
13 it were a situation of an ILEC customer switching to AT&T, a  
14 BellSouth customer switching to AT&T, that come July it would  
15 no longer be a problem, am I correct? Explain that further,  
16 please.

17 MS. SIMS: Nancy Sims. If it is an ILEC customer, if  
18 it is a BellSouth customer going to a CLEC, then the system you  
19 are talking about is not -- I don't think it interferes with  
20 that at all or has any effect on that at all. Because if we  
21 lift on the retail side, more than likely we are going to lift  
22 the freeze as soon as -- as quickly as we can on the retail  
23 side.

24 COMMISSIONER DEASON: What delay do you have now? If  
25 you have a local customer and that customer has a freeze in

1 place, and that customer notifies you they want the freeze  
2 lifted so they can switch service to AT&T, how long does it  
3 take your systems to be able to talk to each other so that when  
4 you get that LSR it will not be rejected?

5 MR. HATCH: Commissioner Deason, I don't want to  
6 interrupt, but it is my understanding that BellSouth does it at  
7 the end of the day. That it is within the day unless it is  
8 very late in the day and then it happens first thing the next  
9 day.

10 COMMISSIONER DEASON: So there is not a problem in  
11 that situation.

12 MR. HATCH: With BellSouth.

13 COMMISSIONER DEASON: Well, where is the problem, Mr.  
14 Hatch?

15 MR. HATCH: My understanding is the problem results  
16 with other CLECs. I mean with other ILECs.

17 COMMISSIONER DEASON: So it is a problem with Verizon  
18 and Sprint?

19 MR. HATCH: That is my understanding. Now, to be  
20 honest, I mean, to be complete here, we did have a problem with  
21 BellSouth. They are fixing that problem. So as competition  
22 spreads, we anticipate that if you are going to have rules on  
23 this thing you ought to make them applicable to everybody.

24 COMMISSIONER BRADLEY: You know, it might be helpful  
25 for us if we could have the original language, that way we can

1 see what we are discussing.

2 CHAIRMAN BAEZ: While we are going through this round  
3 of questions, maybe somebody can jog out to the copy center.

4 COMMISSIONER BRADLEY: At least so we can read along.

5 CHAIRMAN BAEZ: Thank you.

6 COMMISSIONER BRADLEY: But now the original language  
7 has been deleted, correct?

8 CHAIRMAN BAEZ: That is what you have before you  
9 right now, what Ms. Salak is --

10 COMMISSIONER BRADLEY: And we are on the alternative  
11 language, but doing a comparison between the verbiage, is that  
12 what we are doing?

13 CHAIRMAN BAEZ: Section 13 was deleted from the  
14 proposed rule that we are discussing today, and so essentially  
15 you have a choice of adding one or the other or none.

16 COMMISSIONER JABER: I think it is confusing to keep  
17 referring to it as deleted. We should probably back up and  
18 indicate that --

19 CHAIRMAN BAEZ: It is not included.

20 COMMISSIONER JABER: -- it never got incorporated.

21 CHAIRMAN BAEZ: It was never included. That is  
22 correct.

23 COMMISSIONER JABER: It is not that one of us deleted  
24 it today.

25 COMMISSIONER BRADLEY: Okay. So, procedurally, have

1 we laid on the table the alternative language and now we are  
2 discussing that?

3 CHAIRMAN BAEZ: Procedurally you haven't laid any  
4 language on the table.

5 COMMISSIONER BRADLEY: Okay. So what are we -- we  
6 are trying to decide if --

7 CHAIRMAN BAEZ: And, again, as I suggested earlier,  
8 this is one of a rather short list of proposed changes that I  
9 have marked only because AT&T has proposed an addition of this  
10 Subsection 13. So if you want to adopt it because you think  
11 the problem exists and should be addressed, then you have a  
12 choice of -- then you have a choice of two versions. One of  
13 them which was originally part of what the proposed rule is,  
14 but is no longer, so you get your pick of two, or you have, you  
15 know, numerous ways of addressing the issue.

16 COMMISSIONER BRADLEY: I tell you what my concern is,  
17 it is the same as what Commissioner Jaber's concern was as it  
18 relates to the discussion and the language that we dealt with  
19 previously. The fact that it has not been workshopped and  
20 agreed upon might create -- we may be including something that  
21 has an unintended consequence here that we don't --

22 CHAIRMAN BAEZ: And I appreciate --

23 COMMISSIONER BRADLEY: And that can always happen,  
24 even when you workshop it.

25 CHAIRMAN BAEZ: And I would agree with you, except

1 for the fact that I think staff can clarify this. In terms of  
2 workshopping the two versions, one of them was workshopped, I  
3 guess. Just to be fully accurate as to what the posture of  
4 these different versions of language are.

5 COMMISSIONER BRADLEY: The original was workshopped  
6 for the sake of the record.

7 CHAIRMAN BAEZ: Right.

8 COMMISSIONER BRADLEY: The alternative was not?

9 CHAIRMAN BAEZ: Exactly.

10 COMMISSIONER BRADLEY: And one other question now.  
11 What was the rationale for the deletion of the original  
12 language?

13 MR. KENNEDY: Cost based on Verizon's response to the  
14 SERC.

15 COMMISSIONER BRADLEY: Okay. Now, a question of the  
16 ILECs. Just for the sake of the record, is cost an issue with  
17 all the ILECs or is it just Verizon?

18 MS. KHAZRAEE: This is Sandy Khazraee for Sprint.  
19 Cost is an issue for Sprint, although the reason we actually  
20 objected to this in the original workshops was because the way  
21 that language is written, it sounds like it is possible to  
22 change somebody's local service provider who had a local  
23 service PC freeze even before the freeze had been lifted. And  
24 to us from a policy and a legal perspective it is almost like  
25 what would be the point in having a local PC freeze if you can



1 change their service before you have actually lifted the  
2 freeze.

3           So we never got to the point of identifying our  
4 costs, but there is a cost. There would be requirements to  
5 change systems in Sprint in order to do that. Because  
6 currently when an LSR comes through, it sees there is a PC  
7 freeze and it rejects the LSR. Lifting the PC freeze is only a  
8 record change. And when they receive the request to do it they  
9 do the record change right then. The waiting period is because  
10 our systems do file maintenance at one time, generally late in  
11 the evening, and so the record itself actually doesn't get  
12 updated until the file maintenance takes place.

13           COMMISSIONER DEASON: But that is done daily.

14           MS. KHAZRAEE: That is true, so within 24 hours  
15 should be sufficient. But unlike BellSouth, who is making the  
16 change to their system in order to -- I'm not sure, but I am  
17 getting the impression it is where it can look out there and  
18 say, oh, there is a pending lift the PC freeze request out  
19 there, so we can go ahead and let this service order come  
20 through. Our systems cannot do that without changes, and  
21 although I don't know the magnitude, I would expect that they  
22 would be probably to the order that Verizon has discussed,  
23 because I think it would take quite of bit of programming. It  
24 is intertwined systems and programming changes would have to be  
25 made in multiple systems.

1           COMMISSIONER JABER: This is not the carriers' plural  
2 last opportunity to address this issue. You still participate  
3 in the collaborative. And to my recollection you all have to  
4 update us, but the migration rules are still being vetted and  
5 discussed in the collaborative, right? This can be further  
6 discussed in that process, correct?

7           MR. HATCH: In theory you could raise it in the  
8 collaborative, but the problem is that we are out of the  
9 collaborative process and into the rulemaking process now, and  
10 the mass migration rules are designed to facilitate an entirely  
11 different phenomena than this general transfer.

12           SPEAKER: It is end user migration rules. That is  
13 not mass migration, it is end user migration. It is the very  
14 thing we are talking about here.

15           COMMISSIONER JABER: You are both talking at the same  
16 time. Let me make sure I understand what was just said. You  
17 are still participating in the collaborative, there is some  
18 discussion and movement with regard to the migration rules. I  
19 don't care what kind of migration, but there are discussions,  
20 right? This can be. Where there is a will there is a way.  
21 This can be discussed more through the collaborative forum,  
22 correct?

23           MR. HATCH: It could be.

24           COMMISSIONER JABER: All right.

25           CHAIRMAN BAEZ: Commissioners, I'm almost afraid to

1 ask, but are there any --

2 COMMISSIONER JABER: I'm not going to move to adopt  
3 this.

4 CHAIRMAN BAEZ: Okay. I think procedurally we can  
5 move on if there is no desire to address any of the proposed  
6 additions. And that is what I am sensing. I guess the only  
7 changes that I have left marked are the housekeeping, or the  
8 language changes that Mr. Kennedy had proposed. Am I skipping  
9 anything by anyone's count?

10 COMMISSIONER JABER: (Inaudible).

11 CHAIRMAN BAEZ: The concept of portability I guess in  
12 Subsection 4 of .490, of 24.490, that is the only other  
13 language changes that I have.

14 COMMISSIONER JABER: Yes, I would -- Mr. Chairman,  
15 this is the -- I suppose Commissioner Deason pointed out  
16 earlier, we do need to have staff give us suggestions on how to  
17 address consistency with the prior vote, but whenever you are  
18 ready I can --

19 CHAIRMAN BAEZ: That is the last one I have. I'm  
20 sorry, I misspoke. But it is part of -- there are minor term  
21 changes according to transfers that also include Subsection D,  
22 which we will discuss on a substantive basis after we get done  
23 with this.

24 COMMISSIONER JABER: How about I give you, then, a  
25 general motion to allow staff the flexibility to change the

1 word porting or port in this section where appropriate to  
2 transfer or transferability?

3 CHAIRMAN BAEZ: Very well. There is a motion. Is  
4 there a second?

5 COMMISSIONER DEASON: Second.

6 CHAIRMAN BAEZ: A motion and a second. All those in  
7 favor say aye.

8 (Unanimous affirmative vote.)

9 CHAIRMAN BAEZ: No nays. Show the motion passed.  
10 And, staff, you have liberty to make whatever changes of those  
11 that we discussed earlier. Now, we are on the substantive  
12 address of Subsection D.

13 And, Ms. Cibula, can you explain for us, now that we  
14 have deleted the term temporary disconnect, what changes would  
15 be necessary to this Sub D in order to let the policy live and  
16 still be accurate with the prior decision?

17 MS. CIBULA: It is actually Page 26, Subsection 4.  
18 Going through there we are going to have to take out the words  
19 temporary disconnect and change --

20 CHAIRMAN BAEZ: I see, the whole of Subsection 4.  
21 That's right.

22 MS. CIBULA: Yes, because this is kind of a mirror of  
23 the number portability rule that we made changes to based on  
24 Sprint's suggestion. So changes are going to have to be made  
25 to this section to probably just mirror what Sprint had as

1 their suggestions for number portability. But there is one  
2 other section, Subsection C, that I believe is a little bit  
3 different than the number portability rule.

4 CHAIRMAN BAEZ: Well, can we -- and I guess the  
5 suggestion is that some -- I'm trying to recall earlier when  
6 the subject was brought up whether the -- I guess whether the  
7 qualification of disconnect as a status needs to be included in  
8 the rule. By that I mean that we haven't created a new status  
9 of temporary disconnect, but for clarity sake the concept of a  
10 disconnected number as opposed to a working number has to be  
11 maintained in the substance of the rule. That by its own would  
12 make it not a mirror provision, but merely consistent, I guess.

13 The question for me is if you we taking temporary  
14 disconnect, if you are taking the whole concept of disconnect  
15 out, there are certainly passages there that don't work without  
16 it, so they need to be deleted. I don't know if that is  
17 something that we can handle here on the fly or not.

18 MS. CIBULA: Let me talk to staff for a minute.

19 CHAIRMAN BAEZ: Take a moment. And, Commissioners, a  
20 quick -- we have two items remaining. I think we are quickly  
21 approaching the end of this one in particular, and I'm just  
22 curious as to what your pleasure is, whether you would like to  
23 eat or work.

24 COMMISSIONER JABER: Well, let me ask you without --  
25 you know, while respecting Commissioners' desires, are their

1 presentations for Items 5 and 11 or is it that there are  
2 questions?

3 CHAIRMAN BAEZ: Near as I can, tell there are  
4 questions from Commissioners. So I have had it represented to  
5 me that it is possible that these items may not take long at  
6 all.

7 COMMISSIONER JABER: Well, in that regard, can I  
8 suggest or move, if you need a motion, that we --

9 CHAIRMAN BAEZ: No, I don't need a motion, I just  
10 want to take a poll of how everybody --

11 MS. CIBULA: I think we might be able to handle it  
12 quickly.

13 COMMISSIONER JABER: Hang on. Let me finish my  
14 thought. Can we give staff a sufficient amount of time to  
15 address your question, Chairman Baez, to make sure we haven't  
16 left anything out by temporarily passing this item just for a  
17 few minutes and quickly take up Items 5 and 11?

18 CHAIRMAN BAEZ: That is an excellent suggestion, and  
19 I'm only sorry that I didn't come up with it myself. Let's TP  
20 this for a moment so that staff can get the language changes.

21 Commissioners, are you all right with that? I think  
22 we can get these other two items out quickly.

23 (Item temporarily passed.)

24

25 CHAIRMAN BAEZ: We are back on Item 3. Go ahead, Ms.

1 Cibula.

2 MS. CIBULA: I believe we were on Page 26, Subsection  
3 4. I think we can make some minor changes to this so that it  
4 will be in line with the number portability rule.

5 CHAIRMAN BAEZ: Right.

6 MS. CIBULA: I would suggest that we leave Subsection  
7 A the way it is. Subsection B, remove the words starting  
8 with -- on Line 15; starting with, "Or refuse to port a toll  
9 free number that is in temporary disconnect status," so that  
10 the sentence reads, "The serving IXC shall not disconnect a  
11 subscriber's working toll free number after receiving a service  
12 transfer request from an IXC."

13 We can remove totally Subsection C. And for  
14 Subsection D, Line 21, remove the words "or a toll free number  
15 in temporary disconnect status," so that the sentence will now  
16 read, "A working toll free number shall be transferred  
17 regardless of whether a balance is owed."

18 COMMISSIONER JABER: Move it.

19 CHAIRMAN BAEZ: There is a motion to adopt the  
20 language of Subsection 4 on Page 26 as amended.

21 COMMISSIONER BRADLEY: Second.

22 CHAIRMAN BAEZ: And a second.

23 COMMISSIONER DEASON: I need to ask a question  
24 about C.

25 CHAIRMAN BAEZ: Go ahead, Commissioner Deason, I'm

1 sorry.

2 COMMISSIONER DEASON: Why are we deleting C? Why  
3 could not we just delete the reference to temporary disconnect?

4 MR. KENNEDY: We believe it is already covered by  
5 paragraph -- the combinations of Paragraph A, B, and D. It is  
6 kind of redundant.

7 COMMISSIONER DEASON: And so we are not changing our  
8 policy, it is just that it is already covered by the language.  
9 Okay, fine.

10 CHAIRMAN BAEZ: Any other questions? There is a  
11 motion and a second. All those in favor say aye.

12 (Unanimous affirmative vote.)

13 CHAIRMAN BAEZ: That motion passes. And,  
14 Commissioners, that concludes what I have as proposed changes,  
15 and I think at this point we have a complete rule. And if my  
16 procedure, my procedural memory is correct, we have the entire,  
17 an entire full flowing rule as amended. All we need is a  
18 simple motion to adopt the rule as amended.

19 COMMISSIONER DEASON: Are we adopting or proposing  
20 for adoption?

21 CHAIRMAN BAEZ: I'm sorry. Please forgive me. It is  
22 proposing the rule as amended.

23 COMMISSIONER DEASON: I would like to go straight to  
24 adoption, maybe except for one issue.

25 CHAIRMAN BAEZ: On the whole, right?



1 COMMISSIONER DEASON: On the whole, I can move that  
2 we propose the rules as modified here today for adoption.

3 CHAIRMAN BAEZ: There is a motion and there is a  
4 second. All those in favor say aye.

5 (Unanimous affirmative vote.)

6 CHAIRMAN BAEZ: And do we need to move on Issue 2?

7 COMMISSIONER JABER: Yes. A motion to approve staff  
8 on Issue 2.

9 CHAIRMAN BAEZ: There is a motion and a --

10 COMMISSIONER JABER: Do you also need us to make a  
11 motion with regard to how this is communicated to carriers?

12 MS. CIBULA: We could do that, as well. If you want  
13 the companies to have more notice -- we usually send out just a  
14 notice of adoption once the proposal period expires, and if  
15 there aren't any requests for hearing or comments, we will file  
16 a notice of adoption. But if you want to give them some extra  
17 notice, we could always take like a cover letter on the top of  
18 the notice sent out by our records department so that there  
19 might be a little bit more of a heads up to all the companies  
20 when they receive the notice that this rule is actually going  
21 to be effective on a certain date and what the new rule  
22 entails.

23 COMMISSIONER JABER: That would be my motion,  
24 Chairman Baez. It would be to approve staff on Issue 2 with  
25 the modification that they enclose a cover letter when they

1 send out the rule package to the carrier that highlights what  
2 the purpose of the rule is and the effective date.

3 CHAIRMAN BAEZ: Including the effective date.

4 COMMISSIONER JABER: Yes.

5 CHAIRMAN BAEZ: Okay, Commissioner Jaber. There is a  
6 motion, Commissioners, as stated. Is there a second?

7 COMMISSIONER DAVIDSON: Second.

8 CHAIRMAN BAEZ: Motion and a second on Issue 2 as  
9 modified. All those in favor say aye.

10 (Unanimous affirmative vote.)

11 CHAIRMAN BAEZ: All right. I guess we are done.  
12 Thank you very much for your comments. And, staff, thank you  
13 for your work.

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STATE OF FLORIDA )

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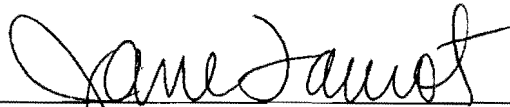
COUNTY OF LEON )

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

IT IS FURTHER CERTIFIED that I transcribed the proceeding from audiotape, and that this transcript constitutes a true transcription of said proceedings.

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

DATED THIS 29th day of May, 2004.



\_\_\_\_\_  
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