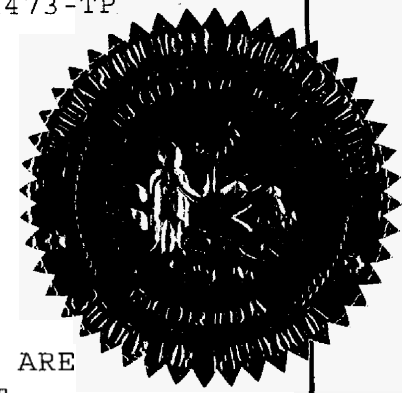


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 991473-TP

In the Matter of:

REVIEW AND REVISION OF RULES
25-4.002, 4.003, 4.0185, 4.023,
4.038, 4.039, 4.066, 4.070, 4.072,
4.073, 4.0770, 4.080 AND 4.085, F.A.C.



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PROCEEDINGS: AGENDA CONFERENCE
ITEM NO. 2

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

DATE: December 7, 2004

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

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1 PARTICIPATING:

2 MARYROSE SIRIANNI, representing BellSouth
3 Telecommunications, Inc.

4 RICHARD CHAPKIS, representing Verizon.

5 RICK MOSES, representing the Florida Public Service
6 Commission Staff.

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P R O C E E D I N G S

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CHAIRMAN BAEZ: We are back on Item 2.

MR. MOSES: Commissioners, Item 2 is staff's recommendation for proposed rule changes to the service quality rules that are applicable to the incumbent local exchange companies. Staff is prepared to answer any questions, and I believe there are parties here to address the Commission, as well.

CHAIRMAN BAEZ: Thank you, Mr. Moses.

Ms. Sirianni and Mr. Chapkis, whoever wants to go first. Ladies first, actually, I should just go ahead and say it.

MS. SIRIANNI: This is Maryrose Sirianni with BellSouth. I probably won't be quite as quick as Richard, so --

CHAIRMAN BAEZ: Well, then you can defer. They do it in football all the time.

MS. SIRIANNI: That's all right, I will go ahead and go.

BellSouth would first like to commend the staff for their work with the industry in the development of the proposed rules. While there is not complete agreement with the rules, there is definitely movement in the right direction.

BellSouth concurs with many of the staff's proposed rules. BellSouth concurs with the elimination of the small

1 business standard from the service standards, elimination of
2 the answer time of operator services and directory assistance,
3 elimination of the customer appointment reporting, elimination
4 of the weighted measurement of service quality, modification of
5 the definition of new construction to include rearrangements or
6 additions to existing facilities in certain instances.

7 BellSouth also would like to commend the staff for
8 adding an option of a service guaranteed plan to the Commission
9 rules. BellSouth has operated under a service guaranteed plan
10 since March of 2002. Both BellSouth and its customers have
11 benefitted from the service guaranteed plan, and it should
12 become an integral part of the Commission rules or objectives.
13 The Commission should also note that BellSouth customer
14 complaints remain better than the industry average.

15 However, there are certain aspects of the proposed
16 rule that BellSouth is in disagreement with the staff. As you
17 are well aware, there are two forces at work in Florida that
18 define the provision of satisfactory service. The first is the
19 current Commission rules. The second is the competition in the
20 marketplace. The Commission rules were codified beginning in
21 the late 1960s and modified over the last three decades. The
22 objective levels themselves have changed little over this
23 period, although significant changes in the regulatory,
24 competitive, technological advancements, system enhancements,
25 and development of employee skill levels through training have

1 occurred.

2 In 1995 and 1996, local exchange competition became
3 law at the state and federal level respectively. Prior to the
4 changes in state and federal law, local telephone companies
5 were operating under rate of return regulation and could add
6 force and commit infrastructure, and in turn the company could
7 request a rate proceeding to ensure that the stakeholders
8 remain committed to their business purposes.

9 Now more than ever, with competition at our heels,
10 BellSouth must continuously work towards developing new and
11 innovative systems, developing new testing, interactive
12 methods, and dispatch strategies that keep its cost of service
13 to its customers as low as possible. The staff's proposed
14 out-of-service rule allows the company to aggregate the results
15 over three months instead of only one month in exchanges of
16 less than 50,000 lines. BellSouth believes that the Commission
17 should adopt our proposal of treating a trouble as a trouble in
18 establishing a 24-hour period as the average.

19 As mentioned by BellSouth in correspondence over the
20 past five years, the concept of satisfactory service and the
21 customer's perception has changed just as significantly as the
22 marketplace. The majority of customers believe that any
23 trouble they are experiencing with their service needs to be
24 repaired as quickly as possible. They want their second line
25 to work as well as their primary line. Our customers believe

1 that noise on the line is as important as a no dial tone
2 indication.

3 Usage patterns have changed with the general use of
4 computers, facsimile and cellular phones. BellSouth has
5 changed its dispatch strategies to meet today's customers'
6 expectations of satisfactory service, and in doing so finds it
7 difficult to meet the current Commission's objectives of
8 repairing out-of-service troubles within 24 hours.

9 BellSouth's customer complaints to the Commission are
10 fewer or meet the industry average for large ILECs. Attempting
11 to meet the specific objectives lead to inefficient dispatches
12 and running technicians past each other when non-out-of-service
13 troubles are just as important to our customers.

14 The Commission should adopt BellSouth's proposal of
15 treating a trouble as a trouble and establishing a 24-hour
16 period as the average. Should it be determined that the
17 specific objective is too easy or there is a significant
18 increase in customer complaints regarding service, the
19 objective can be reexamined or modified downward.

20 The Commission's current answer time rule requires
21 that 95 percent of calls be answered after the last digit is
22 dialed in 55 seconds in the repair office, and 85 percent in 55
23 seconds in the business office. The staff proposes that 90
24 percent of all calls in the business and repair offices be
25 answered in 55 seconds from the time the caller requests to be

1 transferred to a live attendant or fails to interact.

2 BellSouth currently offers its customers various
3 options in order to satisfy their needs. BellSouth believes
4 that staff's answer time proposal would place a considerable
5 burden and cause the company to incur exorbitant costs without
6 additional benefits to its customers. BellSouth does not
7 believe that an answer time standards is necessary.

8 Companies like BellSouth that have specialized
9 representatives to handle various types of calls invest
10 significant personnel and monetary resources in the development
11 and design of the initial integrated voice response menu known
12 as the IVR. This is to ensure that it is customer friendly,
13 customer focused, and that it routes the customer to the right
14 place the first time.

15 BellSouth strongly believes in providing its
16 customers with alternatives to being placed in queue. The IVR
17 in BellSouth's repair office allows the customer to report a
18 trouble, get a trouble ticket number and make a repair
19 appointment without talking to a live attendant. BellSouth
20 also offers its customers the automatic right touch system, use
21 of our web page, and the customer call-back system.
22 BellSouth's right touch allows a customer in the business
23 office to complete transactions such as the ordering of
24 additional services and billing inquiries without ever talking
25 to a live attendant.

1 At any time in the IVR the customer can opt out by
2 taking the appropriate action, and the call will be routed to
3 the queue for answer by a live attendant. BellSouth's customer
4 call-back system is software that monitors incoming calls in
5 queue for BellSouth's consumer sales service and collection
6 centers and also something similar in the repair offices.

7 Once a customer reaches the queue, whether by
8 selecting the zero option, opting out, or depressing the
9 appropriate key, an announcement will be provided stating the
10 expected wait time before a live attendant will answer. When
11 the wait time exceeds a predesignated threshold, the customer
12 is given the following options: One, having the system hold
13 his call in line until such time as it is his turn to be
14 answered and the system will call the customer back. Two,
15 schedule a call back at a time and telephone number convenient
16 to the end user. Three, remain on the line for the next
17 available representative.

18 Currently, approximately 40 percent of BellSouth's
19 customers are offered the customer call-back option.
20 Approximately 12 percent of the 40 choose the customer
21 call-back option. In order to ensure that those customers are
22 promptly routed to an available representative at the
23 designated time, the customer call-back calls are priority
24 queued along with nonplayer calls.

25 The customer call-back system has been in place in

1 Florida since June of 2002, and has provided our end users with
2 increased customer satisfaction resulting from the increased
3 flexibility that the system provides. BellSouth believes that
4 providing customers with the flexibility such as utilizing our
5 right touch system or our customer call back system provides
6 the additional flexibility that customers desire. **This** more
7 than offsets the need to implement an answer time standard
8 across all ILECs of 90 percent of all calls being answered
9 within 55 seconds.

10 As far as we are aware, BellSouth is the only ILEC in
11 Florida that provides the customer call-back feature that
12 allows the end user to schedule a call back on a certain day at
13 a desired time and telephone number that is convenient to the
14 customer. BellSouth believes that the various options that it
15 provides to end users should be taken into consideration and
16 does not believe that an answer time requirement is necessary.

17 Thank you. That concludes my presentation.

18 CHAIRMAN BAEZ: Thank you, Ms. Sirianni.

19 Mr. Chapkis.

20 MR. CHAPKIS: Thank you, Commissioner Baez.

21 Verizon would like to commend staff for its work with
22 the industry in this docket. Verizon supports staff's
23 recommendation, and Verizon is here to answer any questions.
24 Thanks.

25 CHAIRMAN BAEZ: Commissioners, questions.

1 COMMISSIONER DEASON: I have just a few questions for
2 Ms. Sirianni.

3 CHAIRMAN BAEZ: Go ahead, Commissioner.

4 COMMISSIONER DEASON: I'm trying to understand what
5 in your system as you described it with the integrated voice
6 response, what is incompatible with what staff is proposing?
7 Under staff's rule language, what prevents you from doing what
8 you just described? What is incompatible? What does not work
9 in the language of the rule to accomplish providing high
10 standards to your customers?

11 I appreciate what you just said, but I don't see the
12 disconnect between what you are doing and what staff is
13 proposing.

14 MS. SIRIANNI: Commissioner Deason, there is nothing
15 that prohibits us from measuring the calls as staff has
16 proposed. BellSouth just believes that it has other options in
17 place that the customer benefits by using.

18 COMMISSIONER DEASON: Does the rule say that you
19 cannot have an IVR and that you cannot provide an option to
20 customers for a call back?

21 MS. SIRIANNI: No, it allows for that. As a matter
22 of fact, there is two parts of the rule, one for those
23 companies who do use an IVR and one that does not. I will
24 state this, though, that BellSouth currently uses regional call
25 routing. And the way that the staff's proposed rule is written

1 that it requires all customers who opt to talk to a live
2 attendant and those who do not interact with the system to
3 comply with the measurement of the 90/55. Since BellSouth does
4 the regional call routing, it is unable to separate out only
5 Florida calls, and that a measurement would have to be provided
6 to the Commission that is a regionwide number.

7 COMMISSIONER DEASON: Staff, can you utilize regional
8 averages to meet the rule, or do you need state-specific
9 information?

10 MR. MOSES: We have allowed in the rule for them to
11 have data surveys of where they could provide reasonable data
12 in compliance with the rule. They don't have to have the
13 actual data. We put in an option, either actual data or a
14 statistically valid sample.

15 COMMISSIONER DEASON: Is that unacceptable?

16 MS. SIRIANNI: That would be consistent with how it
17 is done today. We do test calls in the same manner that the
18 staff does test calls when they do their service evaluations
19 and we would have to continue doing test calls which are done
20 on an manual basis as opposed to being able to use the switch
21 to measure the calls, which is more efficient. But we can do
22 the manual calls, test calls.

23 COMMISSIONER DEASON: I also have a question
24 concerning your -- I'm paraphrasing here, but I wrote down in
25 my notes that you made the statement that we need to treat a

1 trouble report as a trouble, and that customers have concerns
2 other than just lack of dial tone. Did I understand your
3 statement there? And if I didn't understand, explain it
4 further.

5 MS. SIRIANNI: BellSouth believes that a trouble is a
6 trouble, and the way that the Commission rules are laid out
7 today there are certain standards for out of service where you
8 are completely out of service, not necessarily just a customer
9 who calls and has noise on its line. We consider that our
10 customers believe that that is as big of a trouble as being
11 totally out of service. So our dispatch strategy takes that
12 into consideration. And when we dispatch technicians out, we
13 treat that noise on the line as important to that customer as
14 the customer who is totally out of service.

15 So when you are sending that technician out you won't
16 run a technician to one side of town to get a total out of
17 service to the other side of town to get another total out of
18 service and then come back to get the one who just has noise on
19 its line. I mean, that is the point I was trying to make.
20 That our customers believe whether it is noise on the line or
21 whether they are completely -- no dial tone, it is just as
22 important to them.

23 COMMISSIONER DEASON: And the period of time to
24 restore service, according to the standard, is what, 24 hours?

25 MS. SIRIANNI: It is 24 hours.

1 COMMISSIONER DEASON: And that period of time doesn't
2 give you the opportunity to efficiently dispatch?

3 MS. SIRIANNI: Not current -- no. Under the current
4 Commission rule, BellSouth provides its results on a quarterly
5 basis to the Commission, and we have not been able to meet that
6 standard. However, BellSouth operates under a service
7 guaranteed plan since 2002.

8 COMMISSIONER DEASON: And can the service guaranteed
9 plan address outage of service or other problems reported?

10 MS. SIRIANNI: It treats a trouble as a trouble. No,
11 hold on a second.

12 MR. MOSES: Commissioner Deason, if I could add
13 something to that. We considered that approach, and personally
14 I like the approach of treating everything as a trouble. But
15 the problem we ran into in the workshops is we never could come
16 to an agreement on how to measure it. The problem we ran into,
17 they want to include any test okays. **In other words, you call**
18 **in and you say your service is service effected, and they run a**
19 **check while you are on the phone and say no, there is no**
20 **problem, it must be on your end. They wanted to include that**
21 **in the study. So they cleared it in 15 seconds.**

22 Well, when you are doing an average, that 15 seconds
23 is going to counteract a whole lot of them that are out there
24 48, 72 hours further out. So the approach of going to averages
25 didn't really work out too well.

1 Even considering going to averages, we couldn't get
2 to an agreement on the hour to use. They want to go with a
3 24-hour period. When we asked for actual data that would
4 simulate what the actual rule is today for a few months from
5 each of the companies, the average cleared time would have had
6 to have been around 15 hours in order to even be equitable to
7 the rule today. So, we never could come to an agreement on
8 what the number should be, and we also couldn't come to an
9 agreement what should be included in the report.

10 MR. TUBAUGH: And we worked with this. Commissioner,
11 I'm Wayne Tubaugh with BellSouth, and we worked long hours with
12 the staff on this. You asked about trouble is a trouble.
13 There are three pressures out here. You have got the
14 Commission's objectives that we meet, and you have got out of
15 service and you have got service affecting. We get 72 hours to
16 clear a service affecting, which would be what noise is
17 considered. Our customers are not interested in waiting 72
18 hours to have their phone fixed.

19 There are so many people that still use dial-up as
20 opposed to DSL or stuff to dial in on their computer, and they
21 really want their service fixed no matter what the trouble is.
22 And in discussing this within the focus groups and finding this
23 out, to satisfy our customers and keep the complaints down and
24 meet their needs, we decided in the dispatch strategy that as
25 the troubles came in we would do our best to clear them.

1 Now, we clear the 95 within 72 pretty much regularly
2 and don't miss the Commission's objective. We miss the out of
3 service over 24, which creates a problem, but we found that
4 that doesn't necessarily satisfy our customers any more than
5 fixing the one that was not out of service.

6 We also have a problem with -- I say a problem, we
7 have competition to the extent that I also have people on the
8 wholesale side that are competing with my residence customers
9 for dispatch. The same folks fix the same phones because we do
10 the wholesale repair. So I'm sitting here balancing this bag
11 of stuff trying to figure out how to get it done. Our
12 customers are happy with our service. They don't complain too
13 much about the service, and we do really a really good job of
14 dispatching.

15 What we are saying is we need to have this taken a
16 look at. Rick is right. Mr. Moses is correct. The study says
17 about 15 to 18 hours, but if I am giving up 72 hours on my
18 service affecting, and I have a 24-hour out of service and I
19 want to start at an average, let me start there, and if I'm not
20 doing real well, we can ratchet that thing down. But I don't
21 see coming in with a 15-hour average for both service -- and
22 I'm talking about treating a trouble as a trouble, the 24-hour
23 out of service, the 72-hour service affecting, merging them and
24 fixing them on an average of 24 hours. I think it is a
25 reasonable thing. I think it makes my customers happy. I

1 don't lose -- you know, I don't have to go from one side of
2 town to get an out of service as opposed to getting the trouble
3 that is right next to it. And it helps me with my efficiency
4 and dispatch strategy, and that what is we have asked for. And
5 we greatly appreciate the staff including a service guarantee.
6 I'm operating under that now.

7 COMMISSIONER DEASON: Let me see if I understand what
8 you just said. You are indicating that you -- I know I'm
9 missing something, because I don't think you want this, but
10 what I just heard you say is that you want both outage and
11 general service complaints to be based upon a 24-hour standard,
12 and you want to be able to use an average of all of those type
13 repairs or dispatches to meet the 24-hour standard. Is that
14 correct?

15 MR. TUBAUGH: Yes, sir.

16 COMMISSIONER DEASON: Okay. And why is that a
17 problem, staff?

18 MR. MOSES: The problem is what they are going to
19 include in that average. If they --

20 COMMISSIONER DEASON: The 15 second.

21 MR. MOSES: Exactly. When you go to average it
22 changes the entire measurement.

23 CHAIRMAN BAEZ: Can I interject?

24 COMMISSIONER DEASON: Just as a follow-up to
25 Commissioner Deason's question, maybe this will clear up for me

1 anyway. Yes, the problem is with what they want to include,
2 because on average you don't have -- you have service effected
3 cases that get solved in way less than 72 hours, I guess.

4 MR. MOSES: That's correct.

5 CHAIRMAN BAEZ: Is that really what we dealing with?

6 MR. MOSES: Well, it's not just the service
7 affecting, it is any type of service. When somebody calls in,
8 they may have had a phone off the hook in the back bedroom or
9 something, and as soon as the company can test the line
10 automatically from when they call into the repair service they
11 have got the ability to dial up that number and test it
12 remotely. They can pretty much accurately tell where the
13 problem is up to the point of where the customer's premises
14 are. So if they can tell that person to go hang that phone up,
15 they have cleared that within 15 or 20 seconds.

16 When you include that in an average speed of clearing
17 time, it is going to offset one that took them a week to do out
18 there. I mean, it is just a huge difference in the way you
19 measure it. Also, the people that have out of service are a
20 little bit more concerned about their problems than somebody
21 that does have static on it. The advantage to changing to
22 that, though, is they have indicated it gives them some
23 economies as far as their dispatch capabilities. They can keep
24 one person in a neighborhood, whereas they have to run them
25 around a little bit more in order to clear the out of service

1 in order to meet the rule.

2 But as they have also indicated, they have not met
3 that rule for a considerable amount of time, and they went to a
4 service guarantee program, which staff believes that if we
5 stayed with the rule as it is written and they want to go with
6 a service guarantee program on that portion of it, it would be
7 a better fit for the customers.

8 CHAIRMAN BAEZ: The clearing time is not part of the
9 SGP now?

10 MR. MOSES: If they don't want to comply with the
11 clearing time as we have it written or proposed, then they
12 could come in with a service guarantee program to opt out of
13 that, and then offer the customers some type of plan which
14 would be approved by the Commission prior to them implementing
15 it.

16 CHAIRMAN BAEZ: So when the company states that they
17 are subject to a service guarantee plan, it doesn't include
18 this -- it doesn't include this particular measurement, if you
19 will.

20 MR. TUBAUGH: Commissioner, it is based on
21 commitments. We make a commitment to the customer. If we
22 don't meet that commitment, first of all, if they are out of
23 service we pay them for the time that they are out of service.

24 CHAIRMAN BAEZ: No, I understand how it works.

25 MR. TUBAUGH: The clearing times themselves do not

1 enter into the commitment.

2 CHAIRMAN BAEZ: It doesn't enter into the existing
3 commitments of the company.

4 MR. TUBAUGH: Yes, sir.

5 CHAIRMAN BAEZ: Okay.

6 Commissioners, any other questions?

7 COMMISSIONER DEASON: Well, I guess I have another
8 question for staff. The service guarantee program, is that
9 optional or is that required?

10 MR. MOSES: It is optional.

11 COMMISSIONER DEASON: Okay. Assuming that BellSouth
12 continues to exercise that option, which they have indicated
13 that they think that is a good program and they probably would,
14 when it comes to a service outage, if they have the requirement
15 to restore that within 24 hours or incur a liability to the
16 customer to try to make them provide some type of restitution
17 for the outage exceeding 24 hours, why isn't that enough? Why
18 is there an additional requirement within the rule concerning
19 restoration of service within 24 hours?

20 MR. MOSES: The rule as far as the restoration of
21 service in 24 hours, essentially if they came in with a service
22 guarantee program addressing that rule, they would have a
23 waiver of that rule at that point, so they would not be
24 required to clear those within 24 hours. They could put in the
25 conditions in their service guarantee program, whatever

1 denomination that they want to pay the customer, or whatever
2 conditions of service they so please to put out there.

3 Again, that is upon your approval. In other words,
4 it is similar to the service guarantee program that they have
5 come in with now. If they come in with different conditions
6 than is what is in the rules, they receive waivers of the
7 certain rules. The way we have got it in as an option, any
8 rule that we have addressed in here, if they cannot comply with
9 it and they so choose to go with a service guarantee program in
10 lieu of that rule, then they bring it in before you for your
11 approval. So we have given them as much latitude as we feel we
12 can.

13 COMMISSIONER DEASON: Mr. Tubaugh, why is that not
14 acceptable?

15 MR. TUBAUGH: It's acceptable. It is what we started
16 out with. You know, there is really good stuff happening in
17 what they are doing. The service guarantee gives me an option,
18 which we will probably exercise. What I want to point out to
19 you is that the rules as they exist in the 95 percent one has
20 been here for a long time. In my company's opinion in talking
21 to customers, it doesn't necessarily satisfy what they want.
22 And I'm facing several pressures, retail pressures and
23 wholesale pressures where I'm trying to balance this act and
24 get this right because I'm paying penalties in two different
25 places. And if we get the rule right, I might not be subject

1 to the guarantee and have to pay it. I mean, that is the whole
2 purpose is to tell you that I believe there is a better way to
3 do it.

4 If we look at the rule and we get it right, then I
5 wouldn't even opt for the service guarantee. I would go back
6 to trying to meet, you know, doing my best to meet the rules.
7 I provide excellent service to my customers, and we do it
8 deficiently. And, yes, it has been a boon to the telephone
9 company that we have had this service guarantee plan and we
10 appreciate it. I'm just pointing out that, in my opinion,
11 there could be an improvement.

12 COMMISSIONER DEASON: What specifically would you
13 change?

14 MR. TUBAUGH: I would change treating --

15 COMMISSIONER DEASON: I'm talking about the language
16 in the rule. Get very specific.

17 MR. TUBAUGH: Very specific. I would take the out of
18 service and the service affecting and I would --

19 COMMISSIONER DEASON: Can you direct me to the rule,
20 please.

21 MR. TUBAUGH: Let's see. It is on Page 14 of 22 in
22 Attachment A.

23 COMMISSIONER DEASON: Okay, I'm there.

24 MR. TUBAUGH: I'm sorry, it starts at 13 of 22. It
25 says each telephone company shall make all reasonable efforts

1 to minimize the extent of the duration of trouble conditions
2 that disrupt or affect the customer's telephone service.
3 Trouble reports will be classified as to their severity on a
4 service interruption, out of service, or service affecting.
5 And it goes on, they will not be downgraded from an out of
6 service to a service affecting, and they will be upgraded if
7 they turn into a service outage. And then it goes down here
8 and says that it will be done 95 percent of the time within 24
9 hours.

10 What I would change this rule to read --

11 COMMISSIONER DEASON: I'm sorry now, where is the 90
12 percent, what section of the rule is that?

13 MR. MOSES: It is on Line 24 on Page 14.

14 CHAIRMAN BAEZ: Yes, it's 3(a).

15 COMMISSIONER DEASON: Okay. That says in terms of
16 service interruption, restoration shall be scheduled to ensure
17 at least 95 percent shall be cleared within 24 hours of report.

18 MR. TUBAUGH: Right. And if you turn to Page 15, it
19 says service affecting clearance, troubles shall be scheduled
20 so 95 percent of such reports are cleared within 72 hours. I
21 would take these two categories, and I would merge them, and I
22 would call them a trouble is a trouble, and I would give the
23 telephone company an average of 24 hours to clear it.

24 COMMISSIONER DEASON: And, staff, if you were going
25 to combine them, you would use, what, 15 hours? What is the 15

1 hours?

2 MR. MOSES: The 15 hours equates to what we asked for
3 on data for the months where they were meeting the standard as
4 it is today in the rule for the 24 hours, and the service
5 affecting. When we asked for that data, the average, instead
6 of it being in a percentage, we took the actual data and came
7 out with an average, and 15 hours was the clearing time in
8 order to meet what the rule is today for the 24-hour period.

9 MR. TUBAUGH: I'm sorry, Commissioner. And we did
10 provide that data, and some of those must have been really
11 pretty good. We have given up 72 on 60 percent of my troubles,
12 or 54 percent of my troubles which are service affecting, the
13 others are out of service. And I just didn't want to cut my
14 throat. I mean, if we set it at 24 where I'm giving up a bunch
15 of time, and then I find out, or the Commission finds out that
16 I'm making 14 hours on every one of my troubles every day, we
17 can ratchet this thing down. I just thought setting it at 15
18 and then having me miss a rule before I can even get started
19 was the wrong thing to do.

20 COMMISSIONER DEASON: What is your response to
21 staff's concern that addressing a service problem that takes,
22 you know, 20 or 25 seconds, or a few minutes as compared to
23 what a dispatch would require, that that skews your average,
24 and it is really, as I understand staff, and I hope I'm
25 correct, is that they think that that is skewing the data and

1 that it is actually a lessening of the standard. Can you
2 address that?

3 MS. SIRIANNI: Well, Commissioners, it is BellSouth's
4 position that there has been a lot of changes, like Mr. Tubaugh
5 said, over time. And if technological, you know, if we are
6 able to do something on a service affecting without
7 dispatching, then we should be afforded that opportunity. And
8 if that plays into the average, then so be it. I mean, every
9 company --

10 COMMISSIONER DEASON: Should there be a standard for
11 nonpatched and dispatched, a different standard?

12 MS. SIRIANNI: It is BellSouth's position that there
13 should not be, that you should put everything together. I
14 mean, that is not something that we have had discussions with
15 the staff, I don't believe, about having a separate standard
16 for dispatch and nondispatch.

17 COMMISSIONER DEASON: Well, let me ask you this
18 question. If we were to adopt something along the lines that
19 you are suggesting, are we going to see a deemphasis away from
20 clearing outages within 24 hours? Because I understand that
21 you stated that your customers if they have a problem, they
22 have a problem, and they are just as concerned with static on
23 their line as they are with an outage.

24 Well, I can't speak for your customers, but I'm a
25 telephone customer. Not yours, but of a different company.

1 And, believe me, I'm more concerned when I have an outage than
2 when I have static on the line, particularly when you don't
3 have access to 911 and things of that nature.

4 MS. SIRIANNI: Absolutely not. I mean, it will not
5 cause us to deemphasize the importance of out of service, or I
6 guess as you are saying, you know, maybe not make the 24 or
7 whatever. Basically we would be operating the same way we are
8 today.

9 CHAIRMAN BAEZ: Can I ask a question? Do you have
10 the ability -- say for argument sake that it does all get
11 combined. Do you still have the capabilities of measuring
12 outages even -- or you would cease to measure that on a
13 stand-alone basis?

14 MR. TUBAUGH: No, sir, we still have a commitment.
15 We have commitment times that the service guarantee is based
16 on. We still have to pay the out of service, the period of
17 outage. We are not here to --

18 CHAIRMAN BAEZ: But beyond that. No, my question --
19 and in a practical sense, if Mr. Moses said, I want to know
20 what kind of currency you are getting out of this melding of
21 the two, because I want to know whether -- going to
22 Commissioner Deason's question, whether there has been a
23 deemphasis or a degradation of your response times as to
24 outages. Specifically, do you have the ability to provide that
25 kind of information, or is that the kind of thing you would

1 continue to measure?

2 MR. TUBAUGH: Yes, sir. We would continue to mark
3 them out of service, we would just -- we are talking being POTS
4 and objectives here, not necessarily what physically happens on
5 the ground. We are talking about objectives. We are not here
6 saying that you shouldn't approve what it is. What we are
7 saying is there is a better alternative. That as long as we
8 get a service guarantee plan here, there is something that we
9 think we ought to look at and maybe modify it. But that was
10 what the whole purpose of the discussion was about.

11 CHAIRMAN BAEZ: But do you at least recognize that
12 there is a downside? And, again, you said something about
13 cutting your own throat, and I fully agree with you, I think it
14 would be normal for you not to want to do that. But to me it
15 becomes a question of, all right, whose throat is going to get
16 cut here. And the way that it is presented, this combination
17 of, you know, this melding of the service outages and service
18 effected only really is benefitting the numbers one way. And I
19 think, based on our discussion, it has pointed up a
20 possibility -- not a probability, but a possibility that there
21 could be some degradation.

22 And I guess for all the sense that combining the two
23 makes, at least for my comfort level I would like to know that
24 we can at least keep an eye on it and have some kind of
25 opportunity. And I guess that is going to be a question that

1 I'm going to ask in a bit, at least have some kind of
2 opportunity to revisit it and say, you know what, maybe it
3 sounded like a good idea at the time, but it, in fact, is
4 affecting a class of customers. And I would agree with
5 Commissioner Deason, I care more about my service being out
6 than my service being noisy. **Neither one is desirable**, but in
7 a perfect world there is a priority in my mind.

8 MR. TUBAUGH: Absolutely. We would continue to be
9 able to measure that and produce the data for the staff, and we
10 would never shut that opportunity off. It is there just
11 because of the way we handle the trouble load and mark the
12 services and everything. So the capability to monitor would
13 still be there.

14 CHAIRMAN BAEZ: And then a question of Mr. Moses,
15 what could we do with that information, or what could staff do
16 with that information if it does turn out that you do start
17 seeing what everybody fears, that there is an unreasonable
18 degradation of clearances of service outages?

19 MR. MOSES: We have seen a degradation in service
20 quality already under the service guarantee programs. It isn't
21 quite as evident with BellSouth because they weren't meeting
22 the rules at a higher percentage as some of the other companies
23 that have the service guarantee programs, but we have already
24 seen a degradation in the service.

25 If we did go with the average, and we did collect

1 information on out of service, and it does look like it is
2 going further down, we could certainly bring that back to you.
3 It wouldn't be a rule violation by any means, but we could
4 bring it to your attention to see if you want to change the
5 rules.

6 However, as another note, the rules -- whenever the
7 law change that came about where it was going to give the ILECs
8 the ability to be treated the same as a CLEC, whenever those
9 come in, which is probably going to be in the time frame of
10 maybe two to three years maximum, these service quality rules
11 are probably going to go away anyway. So in the meantime, what
12 we were trying to do is to keep the service quality at a
13 reasonable level, and where they know that they can't meet the
14 rules, go to the service guarantee program to where at least
15 the customers that are effected would benefit economically in
16 some manner.

17 CHAIRMAN BAEZ: Commissioner Deason, I'm sorry, I
18 interrupted you.

19 COMMISSIONER DEASON: You know, I have heard the
20 Chairman, and I have a concern that there be a continued
21 emphasis on restoring outages within 24 hours. The company
22 said that that would continue to be the case, and I'm more
23 convinced that it would still be the case if they continued to
24 avail themselves of the service guarantee program. Because if
25 they fail to do it -- and it is on a case-by-case basis. If

1 they fail to meet that, that customer is entitled to
2 restitution, is that correct, under the service guarantee
3 program?

4 MR. MOSES: It depends on how they structure it.

5 COMMISSIONER DEASON: What are the options in
6 structuring the service guarantee program?

7 MR. MOSES: It is wide open. We haven't had any --
8 we don't give them any direction as far as how they want to
9 structure a service guarantee program. The last two that you
10 have --

COMMISSIONER DEASON: What does the option in the
rule say?

13 MR. MOSES: The option gives them that any rule that
14 they want to receive a waiver of, in other words, they don't
15 have to meet that rule, come in with a service guarantee
16 program that addresses that particular rule. And that's it.

17 CHAIRMAN BAEZ: The structure -- maybe I'm
18 misunderstanding your question, Commissioner Deason, but it
19 would look the same as -- I mean, there is a penalty or some
20 restitution number, a dollar number tied to it, and it becomes
21 --

22 COMMISSIONER DEASON: Well, that is the general
23 concept.

24 MR. MOSES: That is the general concept.

25 CHAIRMAN BAEZ: And it becomes personal to the

1 particular customer, correct?

2 MR. MOSES: That's correct. But we left it
3 completely wide open. That is why we put in there upon
4 Commission approval. That way you see the structure, you see
5 the numbers, and if you agree with them then you approve it.

6 COMMISSIONER DEASON: Why can't we allow -- maybe I
7 should direct this to BellSouth. Why can't you come in with a
8 waiver request indicating that you either want these rules
9 waived or else you would rather modify them to have some type
10 of a melding or blending of outages and all service reports,
11 and come up with a service guarantee program that convinces
12 this Commission you are still going to put emphasis on making
13 sure a customer's service is restored, when there is an outage
14 that it is restored within 24 hours. Why can't you do that?

15 MR. TUBAUGH: We can. We do today. Our service
16 guarantee plan is based on the commitment to the customer on
17 the 24 hours, your service will be restored in 24 hours. And
18 if we don't make it, we pay. It says if it is service
19 affecting, if we don't make it, we pay. I mean, that's what
20 the service guarantee on this particular side of our business
21 is about. And we do that. We would like to have the
22 opportunity to meld them. There are some good things that have
23 been done to this rule --

24 COMMISSIONER DEASON: What I'm trying to tell you is
25 that if I feel like that your service guarantee program is

1 structured in the correct way so that the emphasis is there and
2 the customer is protected, I would be willing for you, on a
3 case-by-case basis, to perhaps change what this rule says such
4 that you can efficiently dispatch and the customer is still
5 protected.

6 MR. TUBAUGH: That would be fantastic.

7 MS. SIRIANNI: Commissioner Deason, our service
8 guarantee plan actually expires March of 2005, and we would be
9 glad to look at that. And there is nothing that prohibits us
10 from doing something like that the next time around.

11 COMMISSIONER DEASON: Would this rule allow them to
12 come in with a request to structure a service guarantee program
13 such that we are assured that the emphasis is placed where it
14 should be and that it gives them the ability to change the
15 requirements within other sections of the rule?

16 MR. MOSES: Absolutely.

17 CHAIRMAN BAEZ: And I think that is a great question.
18 I want to ask general counsel, I mean, is it proper for a
19 service -- and I guess maybe I don't have a good understanding
20 of what a SGP really does. I thought it made it -- it waived
21 the rule entirely and made it personal to the customer, based
22 on some criteria, but that the relationship now doesn't become
23 between the Commission as the measurer, if you will, and the
24 company, but rather between the company and the customer, and
25 that's why you have these penalty payments.

1 MR. MOSES: Well, it does come into the Commission,
2 also. For example, under a service guarantee program, if they
3 were to come in and say they wanted to do this combination of
4 the troubles and everything else, and do the average of 24
5 hours, what we would do is monitor that, we would inquire
6 reports and make sure that they are paying the customers and do
7 periodic audits of that.

8 CHAIRMAN BAEZ: You answered my question there. So
9 it actually has two aspects; it establishes a rule or a
10 substitute rule, if you will, that also has this customer
11 component, is that correct?

12 MR. MOSES: Yes. And the disadvantage, if you change
13 the rule to what they are asking you to do, there won't be a
14 service guarantee program, there won't be any benefits to the
15 customer. It is just going to weaken the rule for the company
16 to be able to comply.

17 CHAIRMAN BAEZ: I understand. Thank you.
18 Commissioner.

19 COMMISSIONER DEASON: Mr. Tubaugh, do you have
20 anything to add? I mean, can you come in and tailor, indicate
21 why, based upon the specifics of your service guarantee
22 program, this Commission should provide you with a waiver such
23 that it would allow you to combine the service, the service
24 reports, and have a 24-hour standard for a trouble is a
25 trouble?

1 MR. TUBAUGH: Yes, sir. And we appreciate -- again,
2 we are moving in the right direction. We just wanted to bring
3 our concerns about the existing rules, and thank you for the
4 opportunity.

5 MS. SIRIANNI: Commissioner Deason, only one point I
6 would just bring up, that we would probably have to initially
7 continue under the existing service guarantee plan until
8 programming could be done to implement any changes that the
9 service guarantee plan is now. That would be the only --

10 COMMISSIONER DEASON: That would appear to me to be
11 understandable that it would necessitate that, and I think that
12 we could look at the circumstances as they arise.

13 MS. SIRIANNI: Thank you.

14 CHAIRMAN BAEZ: Commissioners, any other questions or
15 a motion?

16 COMMISSIONER DEASON: Move approval of staff's
17 recommendation with the understanding of the discussion we have
18 had here today.

19 CHAIRMAN BAEZ: There is a motion. Is there a
20 second?

21 COMMISSIONER DAVIDSON: Second.

22 CHAIRMAN BAEZ: A motion and a second. All those in
23 favor say aye.

24 (Unanimous affirmative vote.)

25 CHAIRMAN BAEZ: Thank you, staff. And thank you, as

1 well.

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1 STATE OF FLORIDA

2 CERTIFICATE OF REPORTER

3 COUNTY OF LEON)

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

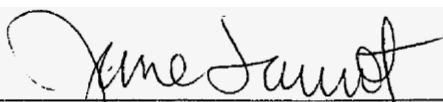
9 IT IS FURTHER CERTIFIED that I stenographically
10 reported the said proceedings; that the same has been
11 transcribed under my direct supervision; and that this
12 transcript constitutes a true transcription of my notes of said
13 proceedings.

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

19 DATED THIS 14th day of December, 2004.

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