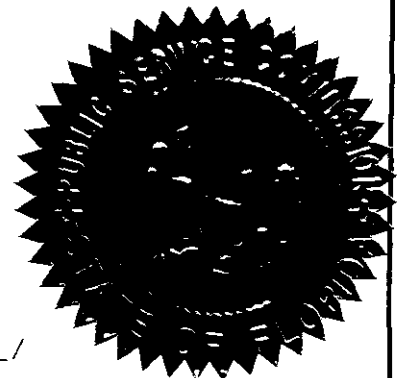


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 060614-TC

In the Matter of:

COMPLIANCE INVESTIGATION OF TCG PUBLIC
COMMUNICATIONS, INC. FOR APPARENT
VIOLATION OF SECTION 364.183(1), F.S.,
ACCESS TO COMPANY RECORDS, AND DETERMINATION
OF AMOUNT AND APPROPRIATE METHOD FOR
REFUNDING OVERCHARGES FOR COLLECT CALLS
MADE FROM INMATE PAY TELEPHONES.



PROCEEDINGS: AGENDA CONFERENCE
ITEM NO. 7

BEFORE: CHAIRMAN MATTHEW M. CARTER, II
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER KATRINA J. McMURRIAN
COMMISSIONER NANCY ARGENZIANO
COMMISSIONER NATHAN A. SKOP

DATE: Monday, September 29, 2008

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

REPORTED BY: LINDA BOLES, RPR, CRR
Official FPSC Reporter
(850) 413-6734

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PARTICIPATING:

CHRISTOPHER KISE, ESQUIRE; FLOYD SELF, ESQUIRE; and
DAVID SILVERMAN, ESQUIRE, (via telephone), representing Global
Tel*Link.

TRACY HATCH, ESQUIRE, representing AT&T Florida.

MICHAEL COOKE, GENERAL COUNSEL; LEE ENG TAN, ESQUIRE;
RICK MOSES; BETH SALAK and RAY KENNEDY, representing the
Florida Public Service Commission staff.

P R O C E E D I N G S

1
2 CHAIRMAN CARTER: Let's give staff a moment to get
3 ready. We'll move now to Item 7. Also, one second. Chris, I
4 think we'll have -- Mr. Silverman is calling in. So let's kind
5 of, everybody kind of hold your places once you get settled in
6 so we can make sure that we get him in on the phone. He's in?

7 Mr. Silverman, are you there?

8 MR. SILVERMAN: Good morning. Yes, I am.

9 CHAIRMAN CARTER: Good. We'll kind of get things
10 kicked off and then we'll give you an opportunity to be heard
11 after we move forward. But right now we're just going to kind
12 of set things up. Okay?

13 MR. SILVERMAN: Thank you.

14 CHAIRMAN CARTER: All righty. And again,
15 Commissioners, what I'd like to do is just kind of, we'll have
16 staff do the presentation, we'll hear from the parties and then
17 we'll hear from Mr. Silverman, who is calling in, then we can
18 go ahead on and come back to the bench so that way we can go
19 ahead with our deliberations.

20 Okay. With that, staff, you're recognized.

21 MS. TAN: Good morning, Commissioners. Lee Eng Tan
22 on behalf of Commission staff.

23 Item Number 7 is staff's recommendation in Docket
24 Number 060614-TC, which is the compliance investigation of TCG
25 Public Communications for improper disconnection of collect

1 calls made from inmate payphone facilities and TCG's failure to
2 provide access to company records.

3 Staff's investigation began with a customer complaint
4 regarding improper disconnected calls. Upon resolution of the
5 customer complaint, staff initiated follow-up testing to ensure
6 that the problems had been resolved. As a result of this
7 testing, staff determined that improper disconnections
8 continued and it initiated a comprehensive investigation to
9 determine the scope of the problem.

10 Staff's recommendation represents the culmination of
11 its investigation. Staff believes that TCG in response to
12 improper three-way calls by inmates utilized software that, if
13 working properly, was to identify and disconnect three-way call
14 attempts. However, based on staff's test calls, company
15 e-mails and the call detail records obtained by staff during
16 the course of this investigation, staff believes that the
17 software indiscriminately disconnected a significant number of
18 calls from the inmate facilities which ultimately required an
19 additional surcharge from consumers for reconnection and that
20 TCG had knowledge of these problems.

21 Today representatives from TCG, Christopher Kise and
22 Floyd Self, are here to address the Commission, and David
23 Silverman, General Counsel for TCG, is on the phone.

24 Mr. Chairman, at your preference staff is available
25 to introduce each issue.

1 CHAIRMAN CARTER: Let's hear from the parties first.
2 Would it be Mr. Self or Mr. Kise?

3 MR. KISE: Me, Chairman. Good morning.

4 CHAIRMAN CARTER: Mr. Kise, you're recognized. Good
5 morning.

6 MR. KISE: Christopher Kise for Global Tel*Link,
7 which -- and we'll get into a little more detail later. Just
8 by way of background, Global Tel*Link acquired TCG Public
9 Communications in about mid-2005, which is how we joined this
10 wonderful docket at the time and somewhat unwittingly. I also
11 want to thank the Chair for allowing Mr. Silverman,
12 accommodating him to appear by telephone. And I'll be very
13 brief in my introductory comments, and, and Mr. Self is going
14 to talk in a little bit more detail addressing specifically
15 some of the points that are in the staff analysis.

16 But as an overriding proposition, and there's several
17 points I'm going to make in that regard, I think I would
18 suggest to the Commission that respectfully it's important to
19 understand what you have here is half a picture. What you have
20 is incomplete. You don't have the full story. If you just
21 pick up the staff analysis and look at it and take nothing else
22 into consideration, then you might come to some particular
23 conclusion. But it is incomplete and it is insufficient in
24 several, I think, very key ways, fundamental ways that are not
25 simply technical points but points which I think and hopefully

1 we can develop for you briefly they demonstrate that, that
2 there's no need to move forward here at this time, especially
3 considering the amount of resources that this would take. This
4 has already taken a considerable amount of Commission
5 resources, and the amount of resources it would take to engage
6 in a full-blown hearing and an evidentiary proceeding do not,
7 based on the record I think we are going to attempt to present
8 to you today, are just simply not justifiable given, given the
9 Commission's very limited resources and the time that would be
10 necessary.

11 Again, I'll make a few just very broad points and
12 then Mr. Self will continue. The first thing for context that
13 I think is very important, it doesn't appear other than by
14 mention, is that this is a prison pay telephone system. This
15 is not telephones at the Holiday Inn. This is not telephones
16 at the Marriott. This is a prison system, and security and law
17 enforcement is the first priority in a prison system. That's
18 number one. Providing phones is good, it's helpful, it allows
19 inmates to have necessary contact, but it's still a prison
20 system and there is a substantial law enforcement interest
21 here. And this sort of fundamental reality is, is effectively
22 ignored by the record before you.

23 The operation of this system, unlike operating
24 payphones on the street or at a hotel, it requires a balancing
25 of very significant competing interests, but the first priority

1 is and always will be security and public safety. And it's
2 also important in this context, I think, for the Commission to
3 consider that this is not a perfect system. There is a, a, a
4 give and take, if you will, in how this system operates, the
5 settings of how it's done in order to balance the needs of the
6 security in the system and to prevent fraud and abuse on the
7 one hand, but also minimize to the extent possible the calls
8 that are dropped that aren't three-way attempts.

9 But it's not possible to have this system operate
10 perfectly. I mean, there's going to be somewhere in a range
11 of -- you will have some calls that -- either you'll have more
12 fraud and abuse than is tolerable or you will have some calls
13 that get dropped that may not have been three-way attempts.
14 But at the end of the day it's a balance, and that balance has
15 to be tipped in favor, the scale needs to be tipped in favor,
16 I'd submit, in favor of law enforcement, in favor of the first
17 priority of the system, the prison system itself, security and
18 public safety.

19 And it's important also to recognize, and this kind
20 of leads to my second sort of overall point, that this all
21 started with a security problem. I mean, how we got here
22 initially, how these settings came to move forward began with a
23 security problem. And so the second point I'd make, if the
24 first is this a prison system, not a hotel, the second point
25 would be, unlike as presented on Page 2 of the staff

1 recommendation, this is not a simple case of improper charges.
2 It's just not.

3 First of all, this is not simple. And as we get into
4 this, I think the Commissioners hopefully will gather from what
5 we're presenting that this is a complex balance of competing
6 interests, that law enforcement and security versus phone
7 service to inmates is a complicated formula. It's not just
8 simply improper charges.

9 And this began with a security problem. Fraud and
10 abuse of the phone system was compromising security and so the
11 settings, the manipulation, the changes in the settings all
12 began as a way to address this security issue. It was at the
13 express direction of the correctional facility. It wasn't like
14 my client or AT&T or any of the other parties that are involved
15 in some shape, form or fashion here woke up one day, as you
16 might conclude from reading the staff analysis, and said, gee,
17 let's turn the settings up so we can make more money. There is
18 just absolutely nothing in this record that supports that
19 conclusion that there's anything improper about the charges.
20 But what the analysis does is it just skips over liability, it
21 skips over causation and it just goes right to damages. And,
22 you know, that's an easy thing to do.

23 You know, I'll digress for just a moment. But a very
24 prominent trial lawyer here in Tallahassee whom you would all
25 recognize told me many years ago why he's so successful.

1 Because what he does is he doesn't worry about liability and
2 causation. He just gets those damages in front of the jury.
3 And he always said, "Son, they'll forget all about that
4 technical legal stuff. Don't worry about that technical legal
5 stuff. Just get the damages out there. Just show how big a
6 problem it is. Show the magnitude of the alleged injury."

7 Well, that's not what this Commission is here to do.
8 This Commission cannot and should not do that. This Commission
9 should look at these technical points, look at liability issues
10 like liability and causation, understand the context within
11 which we're dealing and understand that, frankly, there's just
12 nothing in this record that indicates it's improper the way
13 these settings were changed. It was done at the express
14 direction of the correctional facility and it was done in an
15 attempt, in an attempt to meet legitimate law enforcement
16 security concerns and to prevent fraud and abuse. And so it's
17 not a simple case because there is a complex balancing of
18 interests that's required, and it's not a case of improper
19 charges because there's nothing before you that demonstrates
20 that there was any improper motive. So there's no basis to
21 move forward with the case itself or certainly with any fine.

22 The third overriding point, again, if the first is
23 this is a prison system, not a hotel; the second, this is not a
24 simple case of improper charges; the third would be that the
25 analysis you have in front of you is, is, is lacking both in

1 its conclusions which defy common sense and the evidence that's
2 even there and in what I'll call qualifications, in what's not
3 there to support the conclusions that are drawn.

4 I mean, first, the conclusions reached really,
5 respectfully they defy common sense. The recommendation would
6 have you believe that there were 3 million plus dropped calls
7 in a given time period, 3 million. And there's I don't know
8 how many complaints: 20, 30, 50 at the most? This Commission
9 has experience in the past with consumer issues certainly in
10 the telecom sector. And generally speaking, when that large a
11 segment of the population is affected over a long period of
12 time there tends to be a little bit more voice given to the
13 complaint side than a handful. And all those complaints, by
14 the way, the ones that were made have, have to our
15 understanding been resolved.

16 But more importantly than sort of the lacking of
17 common sense in the nature of the problem identified is that
18 there's just no evidentiary support as I mentioned earlier. I
19 mean, there's no, nothing to establish that liability or
20 causation are satisfied here. There's no recognition of the
21 law enforcement objectives or directives. There's no
22 identification of the cause for the disconnects. I mean, it's
23 simply this conclusion that, well, they were disconnected, so
24 it must have been improper. They were disconnected within a
25 certain time period.

1 And then the analysis goes into what essentially
2 amounts to a mathematical computation and comes up with a
3 number. Well, the math may be right. I don't know. But the,
4 the formula that's used to get to the math problem is lacking
5 because there's nothing to support it. The only thing that
6 they identify for disconnects is that it's improper.

7 There's not even the common sense reasons laid out
8 there or accounted for why in an emotionally potentially
9 charged situation in a prison setting where an inmate is
10 calling to his or her family members or relations and, you
11 know, sometimes those conversations might get charged, there
12 might be a reason for people to hang up before the 30 minutes
13 is over. They might hang up in the first 30 seconds. The idea
14 that there might be callbacks to the same number within a
15 certain period of time is -- I don't think it takes that much
16 of a common sense reach to think that maybe there's some other
17 reasons for this other than simply the system is flawed. There
18 may be reasons to call someone else. There may be reasons that
19 the inmates themselves, and there's been some discussion of
20 this with the correctional facility, were gaming the system.
21 They had a 30-minute limit, so they'd hang up and then call
22 again within a few minutes so they'd get more than their 30
23 minutes. I mean, there's any number of infinite common sense
24 reasons why there would be disconnects within the arbitrary
25 window that has been drawn by the analysis or windows, if you

1 will. But none of those are really taken into account. It's
2 just simply let's skip over liability, let's skip over
3 causation, let's get to this number, let's do this mathematical
4 equation. And then when you get to that number, there's no
5 support for this Commission to even look at, you know, in a
6 serious way the damage model.

7 I mean, the staff is not experts in the traditional
8 sense. I mean, certainly they have understanding and they've
9 been working here a long time and I'm not trying to take
10 anything away from them, but they're not experts in the
11 traditional sense. I mean, there's no expert testimony
12 proffered here, there's no even reports. There's not even a
13 cite to X, Y, Z on prison payphone systems. I mean, there's
14 nothing. It's just simply a group of conclusions drawn by some
15 random testing done by Commission staff, and that's just
16 simply, I would submit to this Commission, not the way things
17 work here.

18 I mean, in other contexts you have -- you know, if a
19 power pole blows down, you don't automatically conclude, staff
20 doesn't go out and look at it themselves and go, oh, well, that
21 must be improper. No. There's, there's experts that look at
22 this and there's a dissection of what actually took place on
23 both sides frankly. There's some substance given to it. If
24 there's some failure of the telecommunications system,
25 someone's phone service isn't working, it's not that staff goes

1 out itself and looks at the wires and says, oh, well, there
2 must be a problem here. It's improper. No. You have someone
3 who understands the fundamentals of the system. And here
4 you've got a damaged model that is put together by, by folks
5 without any of that kind of support, without any expert
6 reliance, without any treatises, without any statisticians,
7 without any, anything. And so I'd submit that that, that model
8 itself is flawed and not worthy of the kind of time that this
9 Commission and the resources that would have to be dedicated to
10 a full-blown evidentiary proceeding in this context.

11 And, finally, the last conclusion that the staff
12 draws about there's been no appreciable improvement over the
13 time period, not only does it ignore the reality situation, it
14 also sort of, it's one of those wonderful conclusions that you
15 base on your own conclusions. Well, there's been no
16 appreciable improvement, but that doesn't take into account the
17 fact that the analysis itself may be flawed and that's why you
18 don't see any appreciable improvement because you've built this
19 sort of construct. And now relying on the construct that
20 you've built outside any evidence, outside any experts, outside
21 any statistical models that would demonstrate any reliability
22 to the construct you now conclude, well, based on our criteria
23 there's certainly no reason to think there's been any
24 improvement. Well, sure, if you build that construct, I'm sure
25 you could come up with any number of ways to fit the situation

1 in and to help you conclude that nothing better has taken
2 place. But that's just simply not the case on the record
3 before you.

4 And then lastly I'll just point out very briefly that
5 in terms of, and I think it's Issue 1, forgive me, but in terms
6 of responsibility and who should be before you, again, I'd
7 submit to you, and as Mr. Self is going to demonstrate here in
8 a minute hopefully, I think we'll establish that there's no
9 basis to move forward at all. But if you're going to move
10 forward at all, then we should have the parties that have been
11 involved in this from the beginning, which would include, which
12 would include AT&T, and Mr. Hatch is here to my left to speak
13 to that if necessary, but, but there's no reason to go forward.
14 But if you're going forward, then you should have everyone here
15 and get a full understanding of what's taking place. This has
16 been going on for a very long time, and I would submit to this
17 Commission that after four years that if this is as far as we
18 can get with the conclusions that have been reached and this is
19 all the support that's there, then it is not worthy of
20 expending very limited resources on a week or two of a
21 full-blown proceeding. Mr. Self, as I said, is going to
22 address more, some of the specifics. Thank you.

23 CHAIRMAN CARTER: Thank you.

24 Mr. Self.

25 MR. SELF: Thank you. Excuse me. Thank you,

1 Mr. Chairman and Commissioners. Good morning. Floyd Self also
2 on behalf of TCG and Global Tel*Link. Commissioners, let me
3 just give you a couple of facts just so we're certain that
4 we're all on the same page here.

5 First, the contract at issue here goes back to 2000
6 when AT&T through its subsidiary TCG entered into this contract
7 with Miami-Dade to provide pay phone services there.

8 Second, AT&T then utilized the services of a
9 third-party vendor T-Netix to actually provide the hardware,
10 software and phone instruments that were going to be used in
11 the jail system and to operate and maintain all of that
12 equipment. So it was not AT&T employees that physically would
13 go in and fix things or change any of the settings that you've
14 read about. And, again, as Mr. Kise indicated to you and I'm
15 sure you know from your own experience, the phones that are in
16 the jails are not your typical phones. They're hardened
17 instruments and there are limitations on the types of calls.
18 For example, here all of the calls need to be collect calls.
19 And, two, there may be some confusion because T-Netix at
20 different points is referred to as Securus or Evercom or CBS.
21 That's all the same company.

22 The third thing I want to make sure we all understand
23 is there's nine different facilities that are part of the
24 Miami-Dade Correctional Department system and they run off of
25 three different phone settings, phone systems, each of which

1 has its own settings. And this is important because you can
2 have settings that apply to one system that don't apply to
3 another. And you'll see certainly in the recommendation and
4 definitely in the documentation that we've provided that the
5 pretrial detention facility in Miami received a lot of
6 attention because the policies governing phone usage there were
7 much more liberal than some of the other facilities because in
8 that case you have inmates who have not been convicted of
9 anything yet.

10 As Mr. Kise said, our client, Global Tel*Link,
11 acquired certain assets of TCG in mid-2005, which included the
12 Miami-Dade contract. And finally Miami-Dade had a policy of
13 prohibiting three-way calls and certain other kinds of calls in
14 order to prevent fraud and the commission of additional crimes.
15 And this is important because certain calls need to be blocked,
16 witnesses, victims, judges and other individuals, based upon
17 the case. And you don't want an inmate to be able to call
18 those individuals that they're blocked to by calling an
19 accomplice or a friend who then utilizes three-way calling or
20 call forwarding in order to connect the inmate with the person
21 that's prohibited.

22 Also, too, the prohibition on three-way calling and
23 some of these other features that are normally available are
24 employed in order to prevent fraud, and we're going to talk a
25 lot about that in just a moment.

1 Now the system utilized some sophisticated software
2 in order to basically listen for certain kinds of sounds on the
3 line in order to make a determination as to whether or not
4 these three-way calls and other prohibited calls were
5 occurring. And the sensitivity settings that are discussed in
6 the recommendation literally affect how sensitive this software
7 is to those kind of sounds, and we're going to talk about that
8 as well.

9 So the basic facts, there's -- I have many, many
10 problems with the staff recommendation, but I just want to
11 focus on three kind of fundamental problems with the
12 recommendation for you.

13 First, as Mr. Kise indicated, the inmate telephone
14 policies were determined by the Miami-Dade Correctional
15 Department officials consistent with the safety and security
16 requirements for the inmates and the public. The increases in
17 the sensitivity settings were all done at the express and
18 direct action of Miami-Dade officials in order to stop fraud.

19 Now the staff recommendation at one point says that
20 Miami-Dade only ever did what AT&T told them to do. Well,
21 you've got to appreciate that statement in the context in which
22 it occurs. It was basically an after-the-fact explanation
23 during the height of the staff investigation into the single
24 complaint that's being discussed in the recommendation. The
25 best evidence and the only reliable evidence are the

1 contemporaneous e-mails that reflect what was happening when it
2 was happening. It's very clear from these e-mails that
3 Miami-Dade was directing how the software should be set, and it
4 was doing so without consulting with or even telling AT&T when
5 those settings were being changed. And what I'd like to do
6 now, Commissioners, is show you a couple of these e-mails.

7 CHAIRMAN CARTER: You may proceed.

8 MR. SELF: Thank you, Mr. Chairman. These are some
9 e-mails, as you can see from the top right-hand corner, that
10 were produced to the Commission staff as a part of their
11 investigation. And while they say they're confidential, I
12 think we all appreciate that because these e-mails are going to
13 and from government officials, under the Public Records Act
14 these would not be confidential. So if you have any concerns
15 about that.

16 The other thing is I've numbered, the little
17 handwritten numbers off to the side, I've numbered these so we
18 can actually follow the chronological order in which these
19 things occurred. So if you go to the second page for the first
20 e-mail, and this is dated October 9th, 2003. And what you've
21 got going on in Miami-Dade is in the summer and certainly the
22 fall of 2003 there was a growing and serious fraud concern that
23 was occurring through the use of the payphone instruments in
24 Miami.

25 And what this first e-mail shows you is what the

1 system settings were when, when T-Netix, AT&T and Miami-Dade
2 officials got together for a meeting in October of 2003 in
3 order to review what kind of options that they had available to
4 them. And as this e-mail suggests, given the facts and
5 circumstances as they knew it at the time, the T-Netix people
6 believed that the appropriate settings were somewhere in the
7 range of 30 to 35 percent. And if you think of like a volume
8 control on your radio, that's probably a good analogy for what
9 these settings would mean.

10 As -- so there was this meeting in October and there
11 was an agreement that, as you see in e-mail number two which is
12 from a Miami-Dade official back to the T-Netix and AT&T people,
13 that they, after their discussion they decided that they were
14 going to set all of the facilities at 25 percent starting
15 November 17th of 2003 and that they would monitor and do some
16 analysis to see what the effect of that was.

17 Well, e-mail number three, which is on the first
18 page, what happened in the interim there is notwithstanding the
19 changing of the settings to 25 percent, the fraud problem
20 continued, and actually this particular Miami-Dade official
21 actually was receiving calls from inmates, harassing phone
22 calls from inmates even though her own number was blocked. And
23 so she advised T-Netix to increase the settings because the
24 25 percent setting was not working appropriately. And as you
25 can see in e-mail number four, it says due to the ongoing abuse

1 by inmates, they, Miami-Dade requested that the sensitivity
2 level be increased to 35 percent.

3 If you then turn to the third page, what happened
4 between December 3rd and a couple of weeks later was that
5 notwithstanding the fact that some of these settings had been
6 increased to 35 percent, that the fraud calling problem
7 especially at the pretrial detention center continued to be out
8 of hand. And what happened was in the AT&T employee making a
9 routine check with T-Netix as to what the settings were found
10 out that indeed they had been increased to be higher than the
11 35 percent.

12 And what you see in the e-mail number six here is the
13 AT&T employee going back to Miami-Dade and basically saying,
14 wait a minute. What happened here? We agreed that it would be
15 35 percent. And now T-Netix is telling me that you directed
16 them to set it at 43 percent.

17 And as you can see in e-mail number seven just above
18 it, the Miami-Dade officials says 43 percent is exactly what is
19 needed at this time for PTDC, or the pretrial detention, and we
20 will evaluate the facilities again in the new year.

21 So what the e-mails establishes is Miami-Dade was not
22 only deciding what the settings would be, but in fact was going
23 around AT&T and going directly to the vendor and saying this is
24 what the settings should be. These are the problems we're
25 having and this is the way that we want the settings set.

1 Now it's important to recognize that the directions
2 in these e-mails were lawful. The Florida Legislature has
3 determined that the jail authorities are responsible for
4 ensuring the safe incarceration of inmates and to assure that
5 inmates are not able to utilize the phones to commit additional
6 crimes.

7 At the time the settings were increased in
8 December 2003, as you can see from the e-mails, Miami-Dade
9 officials made it very clear that these were exactly what was
10 needed in order for the jail to comply with the law and stop
11 the problem that they were seeing. There cannot be any
12 second-guessing by this Commission five years later that the
13 jail made the wrong decision in managing its facility and how
14 the inmates were going to be allowed to utilize the payphones.

15 Now it's our legal opinion that not only are you
16 without authority to tell Miami-Dade what security measures it
17 can and cannot use, but it's also our opinion that you've
18 already determined that TCG was, in fact, required to follow
19 those directives. The declaratory statement that's dismissed
20 by the staff in the recommendation specifically resolved the
21 potential conflict in the Commission's rules between the rule
22 that says payphone calls in confinement facilities must be at
23 least ten minutes and your other rule that says you must
24 terminate calls that are not authorized by the facility.

25 Now your order said, quote, we declare that based

1 upon the facts set forth in Global's petition, Rule
2 25-24.515(22) does not require Global to connect outgoing local
3 and long distance calls for a minimum duration, minimal elapsed
4 time of ten minutes when a confinement facility requests that
5 the company terminate a call not authorized by the facility.

6 Now Miami-Dade's policy, as we've discussed, was to
7 terminate three-way calls and other types of calls immediately.
8 The sensitivity setting that was, the sensitivity software was
9 what determined whether such calls were occurring or not. As
10 these e-mails show you, the lower, the quote, unquote, lower
11 settings were not working and so the Miami-Dade officials
12 ordered that they be set higher in order to capture and stop
13 all of the prohibited calls. As I'll discuss in a minute, to
14 the extent that there was an increase in calls being
15 terminated, those settings captured fraudulent calls.

16 Now staff in the recommendation points out that there
17 was a reservation in the declaratory statement that they
18 believe makes the declaratory statement inappropriate and
19 inapplicable in this situation. What the declaratory statement
20 said in this reservation was, quote, we note that in the past
21 there was a complaint filed with the Commission against the
22 predecessor of this company wherein it was found that the calls
23 were being disconnected due to technical glitches in the
24 predecessor company's equipment. This declaratory statement
25 should not be construed to release Global from responsibility

1 under Rule 25-22, excuse me, 24.515(22) for prematurely
2 disconnecting due do technical glitches or other reasons those
3 calls allowed by the confinement facility.

4 Now there's two important points here. First, the
5 first sentence references a single complaint, which is the one
6 that's discussed in the recommendation. Well, that complaint
7 was fully settled and resolved and there was never any finding
8 by this Commission of any technical glitches or anything else
9 since the complaint was settled and dismissed. There are no
10 other unresolved complaints and there has not been a complaint
11 in at least the last two years regarding this issue.

12 Second, we have not ever sought to get out of any
13 obligation to compensate people who are disconnected for calls
14 that were allowed by the facility. The problem with the
15 recommendation is other than the single complaint that was
16 settled, you do not have before you anyone claiming that they
17 were cut off for a legitimate call. Indeed, by your own
18 Commission staff test in July of 2007, which consisted of 37
19 test calls over two days, every single call was terminated
20 correctly.

21 The bottom line here is that TCG only ever did what
22 Miami-Dade County officials lawfully ordered them to do
23 consistent with jail policy, and that was confirmed by your
24 declaratory statement. For all practical purposes, this should
25 really be the end of the discussion. On this basis alone I

1 believe that you should close the docket without taking any
2 further action.

3 The second point I'd like to make is to address with
4 the staff recommendation is the complete lack of evidence, let
5 alone clear and convincing evidence of any wrongdoing. I'd
6 like to look at what was going on, when it was going on and how
7 the sensitivity settings were being changed over time and what
8 the actual evidence shows and means.

9 The Miami-Dade situation must not be taken out of
10 context. The real disconnect here is that the staff ignores
11 the fact that the Miami-Dade County Correctional system faces,
12 as we've discussed, a very real and serious problem with
13 inmates using phones to harass witnesses and even jail
14 employees and to commit fraud and other crimes through
15 three-way calling and other prohibited uses of the system.

16 Now I can't tell you how ingenious some of these
17 people were because I don't understand myself all of how
18 exactly they made that happen, but the bottom line is they were
19 making it happen regardless of the settings in some cases. It
20 was so bad at one point, there was a meeting with
21 representatives from the State Attorney's Office, BellSouth,
22 Verizon, Sprint, the AT&T fraud department and an elected
23 official from Jefferson County, Florida, which was one of the
24 county systems that was actually hacked into and defrauded by
25 the inmates in Miami-Dade. There were numerous media stories

1 that only exacerbated the urgency of stopping the fraud problem
2 that was occurring in Miami-Dade. The duty and decisions of
3 the Miami-Dade authorities were paramount to their ability to
4 both secure the inmates and prevent them from committing
5 further crimes, as well as to protect the innocent people that
6 the inmates were defrauding.

7 Now in response to these very real problems,
8 Miami-Dade officials, in balancing the rights of inmates to
9 make calls with the obligation to protect innocent callers,
10 used the one tool they had. As we saw in the e-mails, they
11 directed T-Netix to adjust the system settings in order to stop
12 more of the prohibited calls.

13 The staff recommendation ignores the fraud problem
14 and makes numerous assumptions in order to prove a refund, but
15 you can't calculate a refund until you've proven that the calls
16 have been terminated improperly, and that evidence is absent
17 from this recommendation.

18 Now let's look at some of these problems. The
19 recommendation cites a test that's reported in some of the
20 e-mails by T-Netix after the settings were adjusted beginning
21 in November of 2003 which indicated that at a 25 percent
22 sensitivity level 23.92 percent of all calls were dropped due
23 to the three-way software. The staff then reports that for the
24 following week at a sensitivity level of 20, excuse me, of
25 30 percent that 42 percent of all completed calls were being

1 terminated as three-way calls. Likewise, the staff did its own
2 test in October of 2004 which consisted of four calls, two of
3 which were terminated early, and in June of 2005 the staff did
4 a test of three calls in which case two were terminated early.

5 Now I need to pause here for a moment and, and
6 discuss with you the fact that the recommendation states that
7 test results were being manipulated, and they quote an e-mail
8 from 2005 wherein the statement is made that the staff is
9 coming to test and please make sure that the sensitivity
10 settings don't exceed 30 percent. Now this statement is out of
11 context and certainly the conclusion that they draw from it is
12 inappropriate.

13 If you look at all of the e-mails that were provided
14 to the staff, what was really going on here is when the staff
15 came out and did that test in June of 2005, the results
16 obviously were not what, what was expected. And as they
17 investigated the situation further, T-Netix said to them, well,
18 you need to understand if you set it, say, for example, at 30,
19 there's a dynamic nature to that setting. And what that means
20 is that if you're setting it at 30, it's not a hard and fast
21 30. There's some variance there because the system will adjust
22 itself based upon what's happening.

23 So, for example, if you've got an inmate that's
24 attempting a lot of three-way calls in succession, the
25 software, I don't want to say senses it, but the software

1 recognizes that there's attempts, increased attempts being made
2 for three-way calls and it sort of dynamically adjusts itself
3 in order to be even more sensitive. So if you're setting it at
4 30 percent, you've got this range of, for example, 25 to
5 35 percent where in fact the software may be falling at any
6 particular point in time based upon the usage that's actually
7 occurring at that point in time.

8 And in fact you can see this at work. There's an
9 e-mail that we gave to the staff in September of 2005 when the
10 settings were supposed to be at 25 percent, and T-Netix
11 reported back that even though it was set at 25 percent, it
12 actually at that particular moment when they sampled it was at
13 21 percent. So there was no manipulation occurring when the
14 staff was coming out to test the software. It's only that the
15 employees were attempting to make certain that the standards
16 that they had set were not being exceeded once they learned
17 that there was some variance in what those settings actually
18 meant.

19 So if we look at the test results and the changes to
20 the software in November and December of 2003, the
21 recommendation states staff believes that a direct correlation
22 can be drawn from the number of calls dropped by the three-way
23 detection software and the sensitivity level of the software.

24 Now while an increase in the settings may terminate
25 calls, that's not the issue. Rather, the burden is on the

1 staff to demonstrate ultimately by clear and convincing
2 evidence that the settings terminated calls improperly, and the
3 recommendation doesn't do this. There's simply no evidence to
4 support the conclusion that this, as the recommendation states,
5 that this caused numerous consumers to incur additional
6 charges.

7 Now since the recommendation only discusses one
8 customer, which as I said before was settled, I thought it
9 would be appropriate to look at additional customer complaints
10 and see what we could find out. Now in my experience here over
11 the years whether it's 3 million calls or 3,000 calls, if
12 you've got that many calls being terminated in error, my
13 experience says you should be receiving a lot of complaints.
14 This is especially true with this particular customer base
15 because they are very vocal because they are being forced to
16 pay not only for collect calls but obviously at rates that are
17 more than if you walk up to a regular payphone. So this is a
18 customer group that's especially sensitive to billing problems.
19 There's whole websites out there devoted to families and
20 friends of, of inmates and the issues that they face with
21 respect to payphone calls from those inmates.

22 Now in making some public records requests to the
23 Commission staff and sifting through them, for the seven-year
24 period that the staff is now seeking a refund you have less
25 than 50 complaints regarding this particular system over those

1 seven years. And indeed the most in any one year, which was
2 2004, was 14, and you don't have any in the last two years.

3 Now I'm sure you're saying, well, okay, but the
4 Commission doesn't always receive every complaint. You know,
5 the company often will receive calls. Well, I don't have data
6 with respect to the AT&T regime, but I know that during the
7 Global Tel*Link regime there have only been one or two
8 complaints made directly with the company regarding this issue
9 and those were resolved. So there just are not numerous
10 complaints out there regarding additional surcharges. And even
11 if they were made to the company, those would have been
12 resolved. Otherwise, they come to the Commission and raise a
13 ruckus here and you would have known about them.

14 Now the lack of customer complaints is fairly
15 persuasive evidence that if you want to believe there was a
16 problem, it could not have been a very big problem especially
17 if it was going on for seven years. But the staff test results
18 in 2004 and 2005 and even the T-Netix call percentages that
19 were reported bothered me since they suggest that a high
20 percentage of calls were being terminated as three-way calls.
21 So recognizing that the test results themselves are not
22 statistically significant or relevant, I nevertheless went back
23 to the call detail records to see if I could replicate the
24 results from the CDRs. And I've got an exhibit here that I
25 would like to -- oh, wait a minute. That's the right one.

1 CHAIRMAN CARTER: You may approach.

2 MR. SELF: Go ahead.

3 CHAIRMAN CARTER: You may proceed.

4 MR. SELF: Thank you, Mr. Chairman. This is a
5 printout from an Excel spreadsheet. This is an analysis that I
6 did of the call detail records. And just so we're on the same
7 page here, basically Column C is, is information that I
8 obtained, extracted from the call detail records. Excuse me.
9 Column D is what the e-mail reported. So when I told you
10 earlier that the one week was 23.92 percent that T-Netix had
11 reported and then the following week when they increased the
12 settings it was 42.57 percent, that's what those two boxes
13 there in Column D show.

14 If you look in Column C, you know, what I've reported
15 there is, on Line 4, for example, is what the sensitivity
16 setting was for the week of November 17th through the 23rd of
17 2003 when the setting was at 25 percent. When you calculate
18 the total number of calls and then the calls that the CDR said
19 were terminated as three-way calls, what I got was
20 12.37 percent, not the 23.92 percent that the e-mail reported.
21 I don't know what the basis was. I've got to believe they were
22 looking at the call detail records in order to report that
23 number, and I couldn't replicate it no matter how I looked at
24 it.

25 If you look at the next columns going left to right,

1 I looked at the other facilities as well thinking, well,
2 perhaps they misreported. And, again, as you can see on
3 Line 7, one of the facilities with 13.64 percent and the other,
4 the other system was 14.6 percent.

5 In the succeeding lines I looked at different points
6 in time to see what the software was reporting as three-way
7 disconnects. And as you would expect, as the settings were
8 increased, looking at Lines 9 and 10, to 35 percent that last
9 week of November, on Line 13 the percentage of calls being
10 terminated as three-way calls did in fact increase. And then
11 if you look down the page, you can see on Lines 19 and 25, Line
12 19 it's 20 percent, 25 it's 18 percent. By the time you get to
13 April it's 15 percent. If you go to a year later, if you look
14 on the second page there at Lines 53 to 57, it's the one that
15 doesn't have a box around it, when the sensitivity setting was
16 at 38 percent for this particular system, the calls being
17 stopped as three-way calls were only 12.22 percent. And as you
18 can see if you track on down, it's 9.6 percent, 11.2, 6.74. If
19 you flip over to the last page, it's 6.3, 13.6 and 13.89.

20 So the bottom line here is looking at the only data
21 that we do have, which is the call detail records, the CDR data
22 does not support the three-way disconnect percentages that were
23 reported by T-Netix, and it confirms that the seven staff test
24 calls should not be extrapolated out over 14 million calls in
25 order to reach a conclusion as to how many calls were being

1 terminated properly or improperly.

2 The other important thing here to note as I've
3 already indicated is that over time the percentage of calls
4 being terminated as three-way calls by the software declines.
5 So why did this happen? First, given the very serious
6 fraudulent calling problem in late 2003, increasing the
7 sensitivity setting should stop more of the prohibited calls.
8 And that's exactly what we see in those first couple of results
9 looking at the week of November 17th in comparison to the week
10 of November 24th, and then when you look in the succeeding
11 weeks there in December of 2003 and in some of the early months
12 of 2004.

13 Second, as information was disseminated to the
14 inmates and their families that the settings were being
15 increased to better combat the fraud problem and as TCG and
16 Miami-Dade took other measures over 2004 that are not addressed
17 in the staff recommendation to reduce fraud, over time the
18 percentage of three-way calls decreases to the same level as
19 before the settings were increased. And, again, you can see if
20 you compare on the third page those settings that range from
21 6 to 13 percent with the settings on the first page in the
22 first couple of lines there on Line 7 where it was 12 percent.

23 You should especially note that the, you should
24 especially note that the percentage of calls being terminated
25 as three-way calls continues to decline over time even as the

1 sensitivity settings themselves are reduced over time. Again,
2 if you look on the third page, the sensitivity settings were
3 30 percent or lower and, again, you're in the 6 to 13 percent
4 range.

5 Now the staff tells you that they looked at some
6 patents and that one of the patents said that the average in
7 the industry for three-way calls is 10 percent. Well, I don't
8 know whether that 10 percent number is true or not and I
9 certainly would argue that Miami-Dade, the situation in
10 Miami-Dade was anything but typical or average. But regardless
11 of that, because of the increased sensitivity settings, the
12 various other measures that were employed especially in 2004
13 and 2005 to combat the fraud problem, as you can see from the
14 late 2005 information on the spreadsheet, the Miami-Dade
15 average is actually in that ball park of 10 percent.

16 Now this is only some of the data that was not
17 considered in the staff recommendation. But the bottom line is
18 the same: The sensitivity settings were not being manipulated
19 in order to accomplish some sinister purpose. There was a
20 fraud problem that required action by the jail officials and
21 they took the action that they felt was necessary to stop the
22 problem. The recommendation does not prove that more calls
23 being terminated -- excuse me. The recommendation does not
24 prove more calls being terminated improperly or if any calls
25 are being terminated improperly. Thus, there's nothing here

1 that supports any kind of refund, let alone a refund for
2 3 million calls.

3 Now the third and final thing I'd like to discuss
4 with you is that the recommendation is just wrong when it comes
5 to the call detail records, the sensitivity settings, the
6 refund calculation and the penalty. The staff places a lot of
7 emphasis on the call detail record, but standing alone the call
8 detail records don't tell you anything. And, Mr. Chairman, if
9 we could, I'd like to pass out one more sheet here.

10 CHAIRMAN CARTER: You may proceed.

11 Mr. Silverman, are you still with us?

12 MR. SILVERMAN: I am. Thank you.

13 CHAIRMAN CARTER: While they're passing that out,
14 Mr. Silverman, after Mr. Self is completed, I presume you'll be
15 available for questions, if Commissioners have those; right?

16 MR. SILVERMAN: That's correct, sir.

17 CHAIRMAN CARTER: Okay. And I'll go -- also,
18 Mr. Hatch, if there's some comments that you'd like to make,
19 we'd be more than happy to recognize you too as well.

20 MR. HATCH: Very briefly.

21 CHAIRMAN CARTER: Very brief? Well, after Mr. Self
22 finishes, we'll come to you, Mr. Hatch.

23 You may proceed.

24 MR. SELF: Thank you, Mr. Chairman. I put
25 confidential on the top of this page because it does have

1 telephone numbers on, customer telephone numbers on here, and
2 under the Commission's rules those are, under Chapter 119 those
3 are exempt from public disclosure. And we'll collect some of
4 these pages back from you when we're finished. I just wanted
5 you to know what you're looking at.

6 These are a series of calls that I extracted from,
7 from the call detail records. And just to kind of orient you
8 here, what you've got is, in Column B is the particular system
9 that these calls are from. And, like I said, this is a
10 printout from some of the call detail records. Column C is the
11 outbound telephone number. That's the number that was called.
12 Column D is the date of the call. Column E is the time that
13 the call was connected. Column F is the time that the call
14 stopped. G is a calculation of how many seconds of duration
15 that call was. Column H is the reason the call was terminated.
16 And as I put up at the top, the code 128 is where someone hangs
17 up the phone and call 130 is where the system says it's a
18 three-way call.

19 And in Column I is the number of the payphone itself
20 and then Column J is just my calculation expressing those
21 seconds and minutes and seconds just to make it easier for me
22 to see a few things. And then Column K is the time difference
23 from the termination of the preceding call to the start of the
24 next call, how many seconds elapsed between those calls.

25 Now looking at the first group of calls, Lines 8

1 through 13, you cannot tell looking at this call detail record
2 whether any of these calls were terminated improperly. Indeed,
3 for the first group of calls the switch said that each one was
4 terminated by one of the parties hanging up. Yet under the
5 staff methodology, as I understand it, what I've indicated is
6 calls two through six would all be subject to a refund.

7 Now looking at the second group of calls, under the
8 staff methodology the second call would not be subject to a
9 refund since the first call was longer than 25 minutes.

10 However, calls three, four and five would be refunded even
11 though the switch said that calls three and four were three-way
12 calls and the fifth call was terminated by a hang up.

13 Now the third and fourth groups of calls are very
14 interesting. In both situations the staff approach would be to
15 refund all of the calls except for the first one, even though
16 some are indicated as being terminated as a hang up and others
17 are being terminated as a three-way call.

18 But what's really interesting about these calls is
19 look at the time that the first call starts in each group.
20 It's almost exactly 8:36 p.m. in the evening. And the first
21 one runs for about an hour and the second one, the second group
22 of calls for about an hour and a half, an hour and a half in
23 total. Now if I printed out more of the call detail records
24 from and to this same number over succeeding nights, what you
25 would see is a whole series of calls almost every night for

1 about six weeks made from and to these same two phone numbers
2 as this third and fourth group. Now what's interesting about
3 these is the number being called is the Public Defender's
4 Office. And I know there's a lot of great and hard-working
5 public defenders out there, but it just strikes me as a little
6 suspect that every night at almost exactly 8:30 you've got an
7 inmate calling the Public Defender's Office and they're talking
8 for an hour, an hour and a half depending upon the evening.
9 Now the knowledgeable people I show these records to would tell
10 you that these are clearly fraudulent calls, some of which are
11 nevertheless going through and not being terminated as a
12 three-way call.

13 One additional point that I'd like to make here is
14 that all of these calls that the staff would refund, as you can
15 see in the very last column out here, the return, what I call
16 the return caller, the next callback to the same number, all of
17 these calls occur within two clock minutes of the termination
18 of the first call. I have some additional customer bills that
19 I could show you, but the bottom line here is that under the
20 staff refund methodology you could have a call to the first
21 number terminate. You could then have the inmate call a
22 totally different number. That call could go on for two or
23 three minutes, the inmate could hang up and then call the first
24 callback. And under the staff refund methodology because that,
25 quote, return call occurred within ten minutes of the first

1 call, they would issue a refund for that.

2 I know my experience is like on my cell phone if I
3 get cut off in error, I call right back. And, in fact, what
4 you see here demonstrated is indeed that regardless of the
5 reason that the first call was terminating, the call, the
6 return call to that same number always occurs within two clock
7 minutes.

8 Now I've got some additional problems with the
9 ten-minute approach that the staff recommendation utilizes as
10 well as the entire refund calculation which is predicated upon
11 assumptions and beliefs without data, authorities or a
12 reasonable analysis. But the bottom line is that even if you
13 assume that calls are being terminated early, the ten-minute
14 analysis is completely wrong.

15 One more quick point here. All of the calls on this
16 page are to the Public Defender's Office, which were free
17 calls, but the staff did not exclude them from their analysis.
18 There were, in fact, over 500 telephone numbers that are free
19 calls. And if you think about it, the State Attorney and the
20 Public Defender's Offices in Miami are some of the largest law
21 firms in the state. All of those calls were free calls. So
22 excluding these additional calls I think would further reduce
23 the number of calls, as would several other factors that I
24 haven't discussed with you but could if you want to take some
25 more time on that issue.

1 The sum and substance of this recommendation is a
2 math exercise. It has always been about how to calculate a
3 refund and not about what really happened and why. The staff's
4 detailed explanation as to how they took 14 million call
5 records and filtered them down to 3,145,225 calls is not
6 evidence that a single one of those calls terminated
7 improperly. The extensive discussion about the painful process
8 by which they finally obtained the CDR records gave them no
9 more information than what they already had, which was no
10 evidence of customers being terminated in error. Again, if you
11 look at this, you can't tell me which of these calls was
12 terminated improperly. No one can just looking at the call
13 detail records.

14 To wrap up my part, this is just a small part of the
15 giant disconnect between the staff recommendation and what
16 happened and why. There's no evidence of a massive early
17 disconnect problem meriting a refund, let alone a refund of
18 \$6 million plus interest and the imposition of a fine. I have
19 a lot more I could say about the fine, but there's not been any
20 intentional or willful effort to violate any Commission rules,
21 orders or statutes, which is the standard set by the
22 Legislature. This is not like some of the slamming and
23 cramming complaints that you've had in the past where the staff
24 comes to you with hundreds of complaints in a short period of
25 time. The only complaint discussed in the recommendation is

1 one that was settled and resolved several years ago. There
2 have been less than 50 complaints in seven years. The most in
3 any one year was 14, and there has not been a single complaint
4 of call disconnects in the last two years; whereas, I would
5 tell you there have been an increased number of complaints
6 regarding fraud.

7 This recommendation is an insufficient basis for
8 indicting a system that well served the Miami-Dade Correctional
9 Department, inmates and consumers who pay for those calls.
10 Quite frankly, this is a staff -- this staff recommendation is
11 a refund in search of a cause of action that does not exist.

12 Thank you.

13 CHAIRMAN CARTER: Thank you.

14 Mr. Hatch.

15 MR. HATCH: Mr. Kise, I think, had one more point to
16 make.

17 MR. KISE: Just less than 60 seconds, if I may,
18 Chairman.

19 CHAIRMAN CARTER: Mr. Kise.

20 MR. KISE: Thank you. Just to reiterate very, very
21 briefly, I hope you can see from what Mr. Self has gone
22 through, this, this sort of --

23 MR. SELF: Painful.

24 MR. KISE: -- yeah, detail, that a full-blown hearing
25 on this is going to take a lot of time. It is a very -- it is

1 not a simple case of improper charges. It's neither simple
2 because it represents this complex balancing of interests and
3 it's not improper because just from the one exhibit that you
4 have there's really no way to determine what's going on here.
5 And from the e-mails that you have -- when I say going on here,
6 meaning that why these calls disconnected at any given time,
7 and from the e-mails you have you have every reason to conclude
8 as a Commission that this was simply following directives of
9 the correctional facility.

10 And what staff is seeking here is almost \$7.5 million
11 based on a construct that lacks any evidentiary support, that
12 lacks expert testimony, that lacks an analysis short of their
13 own analysis, their own construct. It's not a perfect system.
14 And I think one of the critical failures in the analysis you
15 have in front of you is there's no standard by which to measure
16 what the conduct was. In other words, there's -- ordinarily
17 you would say, okay, well, there should have been X percent,
18 you know, in the system. All good systems operate at a certain
19 level, and this system was intentionally turned up and there's
20 real evidence of the fact that it was intentionally turned up
21 to operate at Y level. And this is just lacking. I mean,
22 there's just nothing here on this record that indicates that
23 and certainly nothing to support this level of --

24 CHAIRMAN CARTER: Mr. Kise, I need you to yield for a
25 question.

1 Commissioner Edgar, you're recognized.

2 COMMISSIONER EDGAR: Thank you, Mr. Chairman. And I
3 do realize that we have not yet heard from Mr. Hatch and from
4 the voice from above. But I guess I'm just a little unclear
5 because in the discussion that, or the comments that you have
6 made my understanding is you're saying that a hearing would not
7 necessarily be the best way to proceed to sort this out, you've
8 talked about the length of time and resources and all of that,
9 but yet in your comments you also cited that there was no
10 expert testimony offered. This is, of course, a PAA. I would
11 expect expert testimony not in this stage but more in the
12 hearing phase, if indeed that were the direction we went. So I
13 guess to boil all that down, I'm not sure what remedy is being
14 proposed or requested.

15 MR. KISE: And that's a fair question because my, my
16 perhaps living with this for quite a while has created some
17 loose speak in terms of expert testimony. There's nothing to
18 substantiate other than the staff's own construct. I mean,
19 nothing at all. And when you have an investigation -- this is
20 sort of an unusual -- first of all, this really shouldn't be a
21 PAA. This should really be in our view an administrative
22 complaint. I mean, this is, this is set up -- we didn't get
23 into this but we can. This is set up inappropriately, frankly,
24 because this is an investigation. This isn't the typical
25 parties that come before you and each side has positions.

1 This is a staff investigation that if they're going
2 to ask this Commission to move forward on, you know,
3 \$6.3 million plus, plus, plus, plus another \$1.3 million in
4 fines, there, we would submit before you would agree to even
5 move forward and create the consequences to both the Commission
6 resources and the, the private sector that there would be some
7 support in the record other than just a staff construct. And
8 so clearly testimony is not there. But, but, but there needs
9 to be, you know, a prima facie case, if you will. There needs
10 to be some reason to support the complaint other than we think
11 this is what it is. And that's really lacking here,
12 particularly when you're given the magnitude of the numbers
13 that are before you. And there's been a lot of, in terms of
14 what we're seeking, I mean, I think that there is a sufficient
15 basis on which this Commission could simply reject the staff
16 analysis. Simply say there's just not enough here for us to go
17 forward and commit this level of resources based on what we
18 have in front of us. There is that.

19 We have had a lot of discussions over long before
20 even my arrival into this process over resolution and those
21 have unfortunately not yielded a result. But there is that
22 avenue as well, which we have always maintained a willingness
23 to explore, which is a mediation, if you will, something that
24 conserves resources, falls short of formal action that is in
25 our view clearly not justified on this record, but perhaps

1 maybe provides an opportunity to explore this further.

2 I don't think -- I think what we demonstrated, our
3 position is clear that we don't think that the Commission
4 should move forward at all. But if the Commission is inclined
5 to look at this further, then, then certainly the way to do it
6 in our respectful view would be through some mediation process.

7 CHAIRMAN CARTER: Commissioner Argenziano.

8 COMMISSIONER ARGENZIANO: You know, Mr. Chair, maybe
9 I'll wait and then ask the questions after because some of them
10 may go to staff also, so.

11 CHAIRMAN CARTER: Okay. I was going to go to, I was
12 going to go to Mr. Hatch so we can go ahead on and get into --
13 Mr. Hatch, you're recognized.

14 MR. HATCH: Thank you, Mr. Chair. Tracy Hatch
15 appearing on behalf of AT&T. I'll be very brief.

16 Setting aside the extensive list of other problems
17 with this recommendation and going back to Mr. Kise's earlier
18 comments about how the staff sort of skipped over a few things,
19 one of the things being liability, one of the things that is
20 suggested in the recommendation by the staff is the bifurcation
21 of this proceeding so that you could proceed directly against
22 AT&T as well as against TCG. There's no hint about how that
23 should be done or any rationale as to why that's appropriate or
24 even legally whether it can be done, and I would submit to you
25 that that's probably not a viable option.

1 As may or may not be completely clear to you, TCG
2 Public Communications was the entity at issue at the very
3 beginning of this case and has always been the entity at issue
4 through the whole case.

5 Now TCG Public Communications, there's a minor error
6 in the staff recommendation where they attribute the ownership
7 to AT&T Communications of the Southern States, Inc. That is
8 incorrect. TCG Public Communications was a wholly-owned
9 subsidiary of AT&T Corp. Now, AT&T Corp is not a company that
10 is subject to your jurisdiction. It does not provide
11 telecommunications service, has never provided
12 telecommunications service. It is simply a holding company of
13 the shares of stock of TCG Public Communications.

14 And so when you suggest that you open a proceeding
15 against AT&T, the staff is not clear which AT&T entity they're
16 talking about. And, you know, as Mr. Kise mentioned, we all
17 sort of devolve into loose speak sometimes when we talk about
18 AT&T, sort of indiscriminately about lots of things. But to be
19 very precise, when the stakes are as high as they are in this
20 case, it's not clear how the staff would proceed against AT&T
21 Corp or why and under what theory. And at least in our
22 position AT&T Corp is not subject to any liability here.

23 CHAIRMAN CARTER: Commissioners -- Mr. Silverman, I'm
24 just going to put you on hold for a -- not technically but just
25 kind of leave you available for questions as we proceed with

1 our deliberations.

2 MR. SILVERMAN: Very well.

3 CHAIRMAN CARTER: Commissioner Argenziano, you're
4 recognized.

5 COMMISSIONER ARGENZIANO: Thank you, Mr. Chair.

6 (Audio system noise.)

7 Okay. I think if I just stay over here maybe it'll
8 work.

9 I'm having difficulty because I looked at this a
10 while ago and I'm looking at it again and I'm seeing different
11 things. And I guess for me what I need to find out is it seems
12 to me that the correctional facility, and this may be to staff
13 and anybody else who can jump in here, it seems to me the
14 correctional facility was the one who always asked for the
15 sensitivity levels to be changed. Is that correct?

16 MR. SELF: Yes. Yes. I mean, that's what the
17 e-mails say. I mean, clearly the AT&T employee in charge of
18 the contract didn't know what was going on. And if you look in
19 the hundreds of e-mails, there's actually subsequent e-mails
20 where she's saying, you know, Miami-Dade, you need to, you need
21 to send this stuff through me so I know what's happening when
22 it's happening. But they nevertheless went around and went
23 direct to T-Netix.

24 COMMISSIONER ARGENZIANO: So in looking at that, it
25 makes me wonder how the company is at fault if the correctional

1 facility is the one who's saying let's change the levels.
2 Obviously they're having problems with the, with the three-way
3 calling and what, and the issues that, you know, they're trying
4 to prevent with this contract or the companies to begin with.
5 Even though they're inmates, and I understand both sides of
6 this, just because they're inmates doesn't mean they should be
7 taken advantage of either and no one should make money off a
8 system, so that's why we're here looking at it.

9 But what it comes down to, did the companies change
10 the levels on their own, and they didn't. They were being
11 asked to change the levels. And I have an e-mail in front of
12 me that says that the facility is asking and they're
13 increasingly asking for more level sensitivity, which may
14 indicate to me that the, the, the system can't do what it was
15 designed to do or cannot handle that. That may be a totally
16 separate problem that somebody else needs to look at.

17 But the one e-mail that got me in looking at today
18 and it says, basically says that we were at 35 percent and my
19 understanding -- can I read this? Is this confidential?

20 MR. SELF: Sure. Yeah. This is, because it's --

21 COMMISSIONER ARGENZIANO: Okay. My understanding at
22 the present time that pretrial is at 43 percent. Any tighter
23 it will cause many calls to be dropped just by breathing. This
24 will call complaints -- cause complaints to Florida. So, I
25 mean, they were told by the company. So I'm having a hard time

1 understanding how it's the company's fault. If you can tie in
2 to me how somehow they, you know -- and at first I looked at it
3 and I said there is a problem, there are calls being dropped.
4 I have no doubt that there's evidence of many dropped calls.
5 But are they done willfully? I don't see that. And that's
6 where I need the real connect.

7 MR. MOSES: Commissioner Argenziano, I think I might
8 be able to address that for you. This is Rick Moses with
9 staff.

10 I think you've hit the nail on the head. The problem
11 is that the system is faulty. That's why they kept having to
12 adjust the system constantly. Whether it was addressing the
13 problem that was actually happening or not we really don't
14 know.

15 We read several articles during this time in the
16 Miami Herald and other things that they were having a call
17 forwarding problem. They could adjust the sensitivity on this
18 thing until the cows come home and it's not going to affect
19 call forwarding. Three-way calling is what the system is
20 designed to detect and it was not doing it correctly. So just
21 jockeying that sensitivity up and down still isn't going to
22 correct their problem, and we're not convinced it's even
23 corrected today.

24 You heard Mr. Self say that we haven't got a single
25 complaint in the last two years. I've got before me some dated

1 as recently as August of this year. They've still got
2 sensitivity adjustments going on, they're still dropping calls,
3 they still have a system that's not going to work properly.

4 Now they can tell you that they're doing this at
5 their direction, but it's a faulty system. Regardless of what
6 you do to it, it isn't working properly.

7 COMMISSIONER ARGENZIANO: Okay. But -- Mr. Chair.

8 CHAIRMAN CARTER: You're recognized.

9 COMMISSIONER ARGENZIANO: And I understand that
10 because I firmly believe what I'm looking at is the system
11 can't handle that. But is that what we're here deciding? What
12 I'm here deciding is whether the company has willful intent
13 here. And, I mean, if they did, I'd say shame on you because I
14 don't think that's right. But I don't see how -- that's not --
15 I don't think that falls under our jurisdiction. And if I was
16 still a legislator, I'd want to look at that and say, hey, it's
17 not working. Maybe we need to scrap this system or this
18 company needs to come up with something else. But as a
19 regulator sitting here, I'm trying to figure out how just
20 because that system doesn't work it fits into my jurisdiction
21 or is the company at fault here in some way. They may be at
22 fault in not being able to produce what they contracted for,
23 but that's not my affair here today.

24 MR. MOSES: We think where the willful intent comes
25 from, and I don't mean to be a practicing lawyer here, but --

1 COMMISSIONER ARGENZIANO: No. I need to hear what
2 every --

3 MR. MOSES: Where we think the willful intent is,
4 they've known about this problem for a number of years. They
5 could have purchased a different system or they could have just
6 flat said to the prison system we can't provide the service
7 you're asking for and get out of the contract. But to continue
8 to try to act like they're going to provide the type of service
9 they're supposed to be providing and not being able to do it
10 and be annoying (phonetic) about it, we think that's willful.

11 COMMISSIONER ARGENZIANO: Okay.

12 MR. SELF: And, Commissioner, if I may respond to
13 that. You've got to understand, Miami-Dade put out a
14 competitive bid in 1999 or 2000. There were different parties
15 that responded to that bid. You know, obviously they had had
16 an inmate phone system previous to that. They set the
17 specifications, they determined whether or not the bids
18 complied with those specifications or not. So regardless of
19 what the staff's conclusions and opinions today may be about
20 that system, Miami-Dade went into this with their eyes open,
21 they knew what it could and couldn't do, and they were happy
22 with the results.

23 Now I'm not going to tell you that every single call
24 terminated perfectly. Yes, there were complaints. Okay? But
25 those complaints were resolved. The analogy that I like to

1 think about is in the early days of long distance competition,
2 if you selected someone other than AT&T back in the beginning
3 and you called, say, you were an MCI customer and you made a
4 call to somebody and you let the phone ring for two minutes,
5 well, in those days they did not have what's known as hardware
6 answer supervision. The switches didn't talk to each other and
7 communicate when exactly that phone went off hook or back on
8 hook. They used software just like this system uses software
9 to determine whether or not certain things are happening.

10 And so what happened was you would potentially get a
11 bill for a one- or two-minute call that you knew was an
12 incomplete call. Well, a lot of the tariffs in those days
13 would say if you get a bill for a short duration call or an
14 incomplete call, call us up and we'll give you a credit for it.
15 I'm not going to tell you how many calls because I don't know
16 here were terminated properly or improperly, but it's the
17 staff's burden to demonstrate to you that calls are being
18 terminated improperly and that there's a problem out there.
19 And there's just no evidence to indicate a systemic problem, a
20 failure of the system over the seven years.

21 COMMISSIONER ARGENZIANO: Mr. Chair.

22 CHAIRMAN CARTER: You're recognized.

23 COMMISSIONER ARGENZIANO: Now you lost me because in
24 everything I read there is a systemic problem, there are calls
25 being dropped and there seem to be too many. And, you know,

1 staff has tried to their credit from the very beginning of
2 this -- I think they went to AT&T, who had the bulk of, I
3 think, the calls that were dropped. I think the largest amount
4 really goes to AT&T for the time that they had this company
5 that belonged to AT&T. Am I correct. Okay. So to me AT&T had
6 the largest expense or whatever word you want to use, the cost
7 goes to AT&T because the most calls were dropped with AT&T.

8 But it seems to me that staff went, tried to get
9 information. I think AT&T said that these logs didn't exist
10 and then we found they did exist, and there were a bunch of
11 things that happened over the years that indicated there was a
12 lot of resistance to get this information. And I think that in
13 everything I read, with all due respect, the calls are being
14 dropped probably because the sensitivity levels are asked to be
15 raised so high so the calls are being dropped. So there is a
16 problem.

17 And to staff's point about where the willful is, I
18 understand what you're saying. You're saying that you've known
19 all along that this is not working, you're tweaking it back and
20 forth, it's not happening and maybe you're making a lot of
21 money off of these calls because, after all, there is a lot of
22 money there, and I understand where you're coming from. And
23 that's where I'm still juggling here because if the facility is
24 saying we have to change these levels, and I think staff is
25 saying, well, by this time you should know that it doesn't

1 work -- but I don't know how, if they have a contract, how does
2 that, how does that, where do we wind up? Do we, can we get
3 some legal advice? If there's a contract between the telephone
4 company and the facility, how do we say that, you know, this
5 program probably should be terminated because -- or maybe not.
6 But how do we get there?

7 MS. TAN: Commissioners, I think if you look on
8 Page 57, you'll see that Miami-Dade and TCG did not have a
9 contract regarding the three-way call settings. But the more
10 important thing is that Miami-Dade County is still the client
11 of TCG. And when a client tells you that they want to do
12 something, if it is against the rules of this Commission, you
13 have to be able as the, as the company to say we may not be
14 able to provide that service. So they have an obligation to
15 operate within the standards that we have set out for them.
16 And if they have a problem, they need to approach us and talk
17 to us about that. We can't let them just decide for themselves
18 if it's something that is against what, what we have. We have
19 rules against ten minutes, you know, dealing with having
20 customers paying for things that they should not have to pay
21 for, for services that they were not receiving. And that's
22 really the issue is that just because the client tells them
23 that they want to do something doesn't mean that they can go
24 ahead and do it straightforward.

25 COMMISSIONER ARGENZIANO: But now -- Mr. Chair.

1 CHAIRMAN CARTER: You're recognized.

2 COMMISSIONER ARGENZIANO: I understand what you're
3 saying. But if the facility, the correctional facility, I
4 believe is -- I think there are laws in place for those phone
5 calls, for those harassments and so on as far as the statutes
6 are concerned -- have to meet those obligations of the
7 statutes, Florida Statutes, then how does the company, the
8 telephone company then abide with our rules if it can't meet
9 that standard of the law? I don't, I don't know how -- this is
10 getting more complicated. But it's -- as a past legislator, I
11 mean, I remember working on some of those issues and thinking
12 if the correctional facility is saying, look, we can't have
13 harassing phone calls, not that all the calls are harassing,
14 but we sure know that some of them are and we don't want that
15 to happen, but we want inmates to be able to talk to their
16 families and not be overcharged. But if the facility is itself
17 saying that we can't meet the statute's obligations and we need
18 to keep tweaking this, I don't know how, I don't know how we
19 can say you can't do that. I'm starting to think that maybe
20 there's a conflict between the statute and our jurisdiction.

21 MR. KISE: Mr. Chairman, can I speak to that
22 question? May I briefly?

23 CHAIRMAN CARTER: Briefly. Yes, sir.

24 MR. KISE: I think that the staff response to these
25 questions demonstrates the point we're trying to make. The

1 responses to the questions ignore this, the reality of the
2 system that's operating. This isn't a hotel. It would be one
3 thing if the Hilton Hotel Corporation told my client, okay,
4 you've got to turn the settings up and, you know, that's going
5 to cause the customers to have dropped calls and they're going
6 to have to make more money. That's sort of a profit-making
7 enterprise that has really no connection with the fundamental
8 concerns of a prison which is safety and security. And so when
9 you have a prison system that has as its first priority
10 eliminating fraud and abuse, maintaining security, it's not a
11 perfect system but it is the system that we're forced to
12 operate in.

13 And to Commissioner Argenziano's good question, I
14 mean, staff is just skipping over that part and saying, oh,
15 it's a faulty system and, oh, well, they have to come back and
16 comply with, with other directives, when they're told
17 specifically, look, we've got a security and safety issue in
18 our prison. You need to do X in order to correct that. I
19 mean, I think that our obligation as a company is to deal first
20 with the prison system's primary purpose. Its primary purpose
21 is not to house people for leisure or to allow them to use
22 phones. Its primary purpose is safety and security. And
23 that's what this deals with and that's why this is a very
24 complicated issue.

25 And there's still no evidence at all of improper

1 charging. The idea that we knew about this -- well, sure we
2 know about it now in terms of the system isn't perfect because
3 these settings do go up and down. And I'm not sure on what
4 technical basis staff has concluded that the software -- I
5 mean, I'm not sure what education, training, experience or
6 knowledge in the, in the software sector that staff has that
7 allows them to make the conclusion that the software is faulty.
8 I mean, I'm certainly not prepared to say one way or the other.
9 So the fact that something occurred does not make it improper.

10 COMMISSIONER ARGENZIANO: Mr. Chair.

11 CHAIRMAN CARTER: Yes.

12 COMMISSIONER ARGENZIANO: I think staff is stuck
13 between a rock and a hard place because they're doing their
14 job. Under the PSC's jurisdiction you look at this and you say
15 we're not -- I mean, you can't have dropped phone calls. It
16 could be a revenue stream for the company doing that. I
17 understand that.

18 What I think I'm asking and I think I'm feeling is
19 that there is conflict between a correctional facility and our
20 PSC regular rules that apply. Because if the facility has to
21 make sure that those harassing calls or dangerous calls that
22 could go out to the public are kept at bay and they can't
23 because the system -- maybe you can't -- maybe there is no
24 system that could ever do it and it's trying to do the best it
25 can, where does that leave staff? They're not wrong in their

1 determination that too many phone calls were dropped. But
2 where does that leave the company's responsibility? I'm not
3 sure I get it. I think we're in conflict with the statute.

4 MS. SALAK: Commissioner, I just wanted to -- Beth
5 Salak on behalf of staff.

6 I just wanted to mention that we have done a data
7 request of companies not associated with this case to find out
8 what kind of drop rates they were seeing, and almost invariably
9 all their disconnect rates are much lower. They have a lot
10 more safeguards in place, they don't, and there doesn't seem to
11 be the issue to, certainly not to the degree that there is for
12 this company. So I guess there is a responsibility of the
13 company to be checking their own system, to be improving it.
14 If they see a problem, then they should be correcting it.

15 And that's what we've seen is just throughout the
16 period of time, even though we're suggesting to them that
17 they're dropping too many calls for obviously years, that they
18 took no action to do that, or at least they did replace
19 software in May of '07, we know of that, but what we don't see
20 is from the data major improvements in that sense. And you
21 would think that if they were working with it, checking calls,
22 they can monitor calls to see if their software is correct,
23 they can -- you know, there are other ways to do it is all I'm
24 suggesting. And we have seen other companies succeed in doing
25 that and we're just suggesting they should be doing the same

1 thing.

2 COMMISSIONER ARGENZIANO: So then -- Mr. Chair, if I
3 may.

4 So then if the facility were to call the company and
5 say that I need you to set this at a higher sensitivity rating,
6 you're saying that the company should say that we can't do that
7 because it will drop the calls?

8 MS. SALAK: I'm saying --

9 COMMISSIONER ARGENZIANO: And I think that's what
10 they did do.

11 MS. SALAK: I think that they can say no. But in
12 addition to that -- that's my nonlegal opinion. But in
13 addition to that, I think that if they know that there's a
14 problem with their system, it's incumbent upon them to go in
15 and proactively try to change it so that it works correctly.
16 I'm not saying they'll ever find a perfect system. But there
17 are other companies that have been much more aggressive and
18 much more proactive in trying to correct and get it right, so
19 to speak, and to protect the families of the prison inmates.
20 Because it ultimately is the families that are paying for all
21 these charges.

22 So I'm just suggesting is that to just say, oh, gosh,
23 it's a sensitivity or, oh, no, we recognize that something is
24 wrong isn't sufficient. They need to be correcting the
25 problem.

1 COMMISSIONER ARGENZIANO: And, Mr. Chair, I guess
2 that's what I was looking for. And maybe, forgive me if I
3 missed it, I've been going through that, is if there are other
4 facilities, I mean other companies who are providing that same
5 service and managing not to get as many dropped phone calls,
6 I'd like to see the particulars.

7 MS. SALAK: It's actually confidential information
8 that we did not file in the recommendation.

9 COMMISSIONER ARGENZIANO: Okay.

10 MS. SALAK: Because we were more focused on --

11 COMMISSIONER ARGENZIANO: Well, then I don't know how
12 to make a determination of that.

13 MR. SELF: Well, and, Commissioner, too, you would
14 have to not only show what those other systems are doing but
15 you're going to have to then also demonstrate that the
16 situation in Miami-Dade is the typical average system, that the
17 facts and circumstances at work in Miami-Dade are exactly the
18 same as would be applicable in those other systems. And, you
19 know, the e-mails with the fraud problem demonstrate a very
20 different situation. And the very e-mail that the staff just
21 quoted for you also says the current level has stopped a
22 majority of the three-way calls. So there may not have been a
23 contract to stop three-way calls, but clearly it's the jail's
24 policy and, again, there's other e-mails that reflect the fact
25 that the policy has stopped these other calls. And you've got

1 Miami-Dade telling you in this e-mail saying, you know, it's
2 working for us.

3 COMMISSIONER ARGENZIANO: But you do realize that
4 where it could be viewed as -- you know, there's a lot of money
5 here and in dropping a lot of phone calls, I mean, that's a lot
6 of revenue to the company. Is there really anything that you
7 can do to stop -- you're saying -- I guess what you're saying
8 is there aren't that many phone calls dropped. But when I read
9 through it, it doesn't look good.

10 MR. SELF: Well, but, Commissioner, that's a math
11 problem. I can calculate 3 million, I can calculate a million,
12 I can calculate 100,000 calls. That's not the issue. You've
13 got to have at least the prima facie case and ultimately by
14 clear and convincing evidence that you've got a systematic
15 problem that's terminating lots of authorized calls improperly.
16 That would imply to me that you've got actual complaints,
17 thousands, hundreds of thousands of calls that are being
18 dropped. I can take the CDRs and calculate down to any number
19 that you want to get. That's not the issue. It's not a math
20 problem. You've got to start with let's look at actual calls
21 that are being terminated. You can't see it from the call
22 detail records. You can't see that. You can't tell me looking
23 at that. No one can.

24 COMMISSIONER ARGENZIANO: Staff, answer, answer that.

25 CHAIRMAN CARTER: Staff, you're recognized.

1 MR. KENNEDY: Yes. What I'd like to add to this is
2 what I haven't heard is if I'm receiving those calls and they
3 get dropped, some of the other companies, they announce upfront
4 if you have dropped calls, you have a way to recover your
5 money. I really didn't see a way in this case for people to
6 recover their money. Because if you read the complaints, the
7 attitude was they give a courtesy credit of \$10 or whatever it
8 may be. And as a good businessman, if you recognize you have a
9 problem, it seems to me you'd have a solution when people are
10 experiencing calls, they'd be aware that that could happen to
11 you. And they could go back and listen possibly if they record
12 it, I don't think they did, but you could have set something up
13 like that, especially the last three to four years, to help
14 people recover the money when they're charged for dropped
15 calls. I haven't heard anything like that.

16 MR. KISE: Well, Mr. --

17 CHAIRMAN CARTER: One second. Hang on a second.
18 Commissioner, had you completed?

19 COMMISSIONER ARGENZIANO: But didn't, didn't they put
20 in a new system? I guess the reason to do that --

21 MR. KENNEDY: In 2007. In 2007, yes.

22 COMMISSIONER ARGENZIANO: Okay. And I guess the
23 reason to do that was to try to correct the problem.

24 MR. KENNEDY: Correct.

25 COMMISSIONER ARGENZIANO: I don't know whether it's

1 working or not, but, but it was to try to correct a problem.

2 MR. KENNEDY: Right. 2003 to 2004 was, you know,
3 several years later. But, yes, that was in place.

4 COMMISSIONER ARGENZIANO: Okay.

5 CHAIRMAN CARTER: Let me go to Commissioner McMurrian
6 and then I'll go to Commissioner Skop.

7 COMMISSIONER McMURRIAN: Thank you, Chairman.

8 I guess my questions sort of are along the same lines
9 as Commissioner Argenziano's, and it's something that I had a
10 problem with when I first got to the case background of the
11 staff rec, and it first mentions our rule. And I need to get
12 straight what our rules say about what this company is supposed
13 to be doing. Because when I -- and I'll just go to Page 2 at
14 the top, second paragraph. And everyone can see but I'm going
15 to read it anyway.

16 Rule 25-24.515(22), FAC, requires that outgoing local
17 and long distance calls from inmate facilities may not be
18 terminated until after a minimum elapsed time of ten minutes.
19 And we talked a little bit about this in my briefing with
20 staff, but I'm still not really clear why our rule -- this is
21 probably a bigger issue, but I think it goes along the same
22 lines as what Commissioner Argenziano is raising, why our rule
23 says that. Why are we -- why has the Commission determined in
24 the past, and I suspect that you all have probably done some
25 research on this, why have we said that it needs to continue

1 for a minimum of ten minutes when we realize that there are
2 certain issues that a correctional facility might have to deal
3 with and might need to cut them off? Does our rule lay out
4 exceptions for that and what are the basis of those?

5 And it's a little bit more complicated than that as
6 well. When Mr. Self was giving his opening remarks and he
7 talked about a different rule which was also discussed, I
8 think, in the dec statement, there seemed to be some conflict
9 with two different rules. And I hadn't really had that
10 analysis in the staff recommendation either, so I don't know if
11 we need to refer to Mr. Self for what that rule was because --
12 Mr. Self, do you remember what rule that, the other rule you
13 mentioned which I didn't get?

14 MR. SELF: Yes. And all of -- and that's what the
15 issue was in the declaratory statement. Because you're right,
16 there is this inherent conflict between the rule, Commission
17 rule that says you must complete confinement calls for at least
18 ten minutes. And then you've got the other rule that says you
19 only complete the calls that are permitted by the confinement
20 facility. Well, if the facility is telling you cut off
21 three-way calls immediately and that's less than ten minutes,
22 how do you reconcile that? And the declaratory statement said
23 if it's an unauthorized call, you may terminate it earlier than
24 the ten minutes because that's what the, that's the jail
25 policy.

1 COMMISSIONER McMURRIAN: Thank you, Mr. Self.

2 So I guess I'm concerned about the conflict between
3 the two rules and what we did in the declaratory statement. We
4 talked about that and I think in the rec it seems to suggest
5 that the declaratory statement didn't quite go as far as what
6 Mr. Self is suggesting. But from what I'm hearing from him
7 today it seems like the caveat that was in that declaratory
8 statement order is not exactly -- it doesn't, it doesn't do
9 away with the concern still about these two conflicting rules
10 and how a party that's trying to abide by our rules is supposed
11 to deal with this very important problem of security and safety
12 for the, for the people that work there and for witnesses and
13 judges, et cetera.

14 MR. COOKE: Commissioner, I think that, first of all,
15 staff recognizes that there's a legitimate purpose to trying to
16 cut off calls that are in the nature of three-way calls that
17 are trying to game the system. And when we said, I believe, in
18 the rec that it's a simple case, I wish we hadn't used that
19 phrase. That was just simply trying to set up the context that
20 what we're talking about are calls that are being cut off,
21 legitimately cut off for legitimate reasons versus calls that
22 are being cut off improperly because the system doesn't work
23 with enough sensitivity to distinguish between proper and
24 improper cut offs.

25 If Miami-Dade is -- nobody is arguing that there

1 isn't a legitimate purpose to have a system in place to try to
2 cut off improper or unauthorized calls. The question is does
3 this system go beyond that and cut off calls by innocent
4 persons? And it is a very difficult analysis, technical
5 analysis to try to make, and that's what staff has attempted to
6 do.

7 As far as Miami-Dade instructing the vendor, AT&T,
8 TCG, T-Netix, whoever you want to look to, yes, they can tell
9 them we need to address this problem. But to simply say that
10 the companies, the suppliers can do whatever they want argues
11 that there's no other way to do it than to cut off innocent
12 calls, and staff doesn't believe that's the case.

13 COMMISSIONER ARGENZIANO: Well, Mr. Chair --

14 CHAIRMAN CARTER: You're on the same mind-set. Go
15 ahead, Commissioner Argenziano.

16 COMMISSIONER ARGENZIANO: But to that point, that's
17 where I see I have nothing here to tell me that there's
18 anything different than that. All I have in front of me is
19 that this company is trying to meet what the facility is asking
20 for. I don't know, I don't see anything else in front of me.
21 I don't know the technical doodads of this type of system.
22 That's a really highly technical word.

23 CHAIRMAN CARTER: That's a technical term. Yeah.

24 COMMISSIONER ARGENZIANO: I don't know whether
25 there's a system out there that can do that. How do I know

1 that? I have nothing to compare it to. So I'm looking at the
2 mandate or actually the correctional facility saying we can't
3 have these calls get through. And, yes, do I think it's
4 getting, dropping calls of innocent parties? I do. I think
5 the staff has made that clear. To me, I think so. But I don't
6 know -- what you're saying is, you know, the company should be
7 able to fix that. I'd like to know if they can, but I don't
8 have a technical expert here to tell me if they can. I'm just
9 not sure at what point I am now in deciding, you know, can I
10 hold the company responsible for your system doesn't work? Is
11 that -- I'm just really stuck because I think staff is right on
12 a lot of points. But at the same time, I don't have anything
13 here to tell me that, you know, this system is identical to or
14 very close to the system in Jacksonville and Jacksonville is
15 not dropping calls because of this reason. And the company, if
16 you can correct that, I would hope that you do because, you
17 know, this is probably going to go to a different direction
18 somehow. But if you follow my point, I don't know how I would
19 determine that the company can make it happen without dropping
20 some innocent phone calls.

21 MR. COOKE: I think staff, and I think Ms. Salak
22 spoke to this a little bit previously, that we've looked at
23 other companies and what they're capable of doing and different
24 approaches. And, yes, staff would have a burden to bring
25 forward information in the hearing, if there is one on this,

1 that makes the case that there are other ways to achieve this.
2 Just like it's -- I just don't think it's fair necessarily to
3 assume listening to the companies assert that there's no other
4 way to do this.

5 COMMISSIONER ARGENZIANO: I agree to the point of if
6 you had something in front of me. You're asking me blind
7 faith, and that's where I can't -- trying to be logical. So
8 I'm not assuming. I'm just going by what I have in front of
9 me, and I don't have anything else in front of me. So I'm not
10 assuming. I am looking for something that tells me something
11 different and it's not here.

12 MR. COOKE: I think a lot, a lot of it is
13 confidential information that we would have to probably address
14 appropriately in a hearing setting.

15 And perhaps one thing that would be worth getting to
16 is where do we -- well, what are some ways to approach this
17 case? It's presented as a PAA, and obviously there are
18 different stories being told, one from the company, one from
19 staff, and it may be virtually impossible for a person
20 listening to these two different sides based on simple
21 discussion to come to a conclusion.

22 COMMISSIONER ARGENZIANO: Exactly.

23 MR. COOKE: Alternatively, we could set this for a
24 hearing, directly for a hearing so that these issues can be
25 presented and addressed and witnesses presented under oath, the

1 type of technical information dealt with in detail. Yes, it's
2 going to be tedious and it is going to be work on the part of
3 the Commission, but it may be the only way to come to a
4 conclusion about these issues that we're asking you to grapple
5 with.

6 CHAIRMAN CARTER: Commissioner Skop.

7 COMMISSIONER SKOP: Thank you, Mr. Chair.

8 We've had some good discussion so far and I think
9 some good details have been fleshed out. I guess Mr. Self had
10 provided as one of the handouts walking us through some of the
11 direction that was received from Miami-Dade in terms of their
12 directing of the sensitivity settings, if you will. And,
13 again, if I could just refer my colleagues to Page 39 and 40 on
14 the staff recommendation, which is confidential. And I'm not
15 really going to be able to, to enunciate or talk about this,
16 but if they were, if my colleagues could look at the second to
17 last paragraph on Page 39. Is everyone okay with that? And
18 then looking back over to the -- again, I'm trying to put the
19 names to the e-mail, but at the bottom of Page 40, just the
20 name and title, that's the direction. Like I say, I don't know
21 how much to make out of that. Again, I think that there's not
22 much I can say other than -- because it's confidential.

23 CHAIRMAN CARTER: Do you have a question,
24 Commissioner?

25 COMMISSIONER SKOP: I can't ask it. I just --

1 CHAIRMAN CARTER: Okay. Let's don't ask it, don't
2 ask it then since it's confidential.

3 COMMISSIONER SKOP: I guess I would like to add a
4 little bit. I agree with, I believe, Commissioner Argenziano,
5 and I think some of the discussion is that I guess the issue
6 before us, this is a PAA, which makes it difficult in light of
7 the dollar amounts in question and some of the differences in
8 terms of the stories and being able to connect the dots. But
9 just I'm kind of interested in the will of the Commission, and
10 if we need to go to hearing, we can go to hearing or whatever.
11 But I just wanted to kind of point to that, that one spot.
12 Again, this is a, somewhat of a difficult issue and I see, I do
13 see both sides of the story. And I'll leave it at that and let
14 the discussion continue.

15 CHAIRMAN CARTER: I just, you know, Commissioners, if
16 you'll permit me to kind of think aloud. I just, you know, the
17 hard working people in the Miami-Dade correctional facility are
18 doing their job and I really -- you know, we're talking around
19 Miami-Dade but we're not talking to Miami-Dade. And I think
20 that in the context of we live in a post-9/11 world and as such
21 when people that are in the process of protecting those on both
22 sides of the bars request extraordinary measures to protect
23 judges and witnesses, in fact -- and maybe some of you may have
24 seen the other day where there was a person who was, you know,
25 killed by a person that was accused of -- he went out and

1 killed all the witnesses and all. So I think that, you know,
2 sometimes we have to back up, you know, and make our decisions
3 in the context that we're dealing with, you know, people's
4 lives and livelihoods here. So I really would not want to have
5 us get into as posture where we drag the Miami-Dade
6 correctional people up here to Tallahassee when their job is
7 protecting the public as opposed to talking about phone
8 companies.

9 The other thing, and I'm just thinking aloud,
10 Commissioners, the other thing is that as we look at this
11 process is that there's a contract between Miami-Dade and the
12 phone company for X. And if we're going to try to make the
13 company do X plus, then who pays that? Do we -- is this --
14 remember, Commissioner, when you were in the Senate you talked
15 about unfunded mandates coming down from, from Tallahassee to
16 the local communities? And as I said, I'm just thinking aloud.
17 And I think in the context of this, and if there are other
18 companies situated like this, we'd have to, Mr. Self is right,
19 they'd have to be similarly situated with Miami-Dade. And I
20 don't think there's any other county in Florida that's
21 similarly situated with Miami-Dade. And so I think that maybe
22 if you've got a smaller system, you can do some different
23 things and all like that. That may be okay. But when you
24 start from a process going back to 2003 and you come down the
25 road and you expend some more funds and you start changing

1 orders of the contract, then somebody has got to pay for that,
2 and the person that's got to pay for that is the person on the
3 other end of the line. And I'm really, like I said, I'm just
4 thinking aloud, but I'm really uncomfortable with, you know,
5 putting Miami-Dade in a posture to where when they're dealing
6 with public safety and safety of people on both sides of the
7 bars, as well as in this post-9/11 world we live in, is that
8 I'm a little reticent in going to the standpoint of where we
9 start forcing things on our sister agencies like that,
10 particularly local government.

11 Commissioner Argenziano.

12 COMMISSIONER ARGENZIANO: Well, obviously, you know,
13 I have angst over this. But there has to be something in place
14 to make sure that -- because there are a lot of mamas and
15 daddies out there who have to talk to their children in
16 facilities every day, and it's not their fault of whatever
17 crime was committed that incarcerated their loved one, and they
18 shouldn't be saddled with something that may not be functioning
19 right. You're talking about a lot of money to people and some
20 people who can't afford it. So there has to be some safeguard
21 that that, that is not happening. So you can't dismiss it
22 totally because we have to have more information, I gather.

23 CHAIRMAN CARTER: And that's the question and I
24 appreciate you saying that. The question is how do we
25 ascertain the legitimately dropped calls versus calls where the

1 facility said turn them off? I don't think we have that before
2 us here. I think we have a mathematical computation but we
3 don't have a qualitative determination as to what calls were
4 terminated because we don't want the bad guys talking to judges
5 and witnesses versus legitimate calls where people call their
6 mom and say, hey, bring me some toiletries or let me talk to my
7 son, I understand he, you know, did good in school and all
8 that.

9 We want -- I mean, in this balancing act I think we
10 need more, you know, so we can make those kind of decisions. I
11 don't think that's before us. I don't think -- I mean, unless
12 I missed something in the record. So, as I said, that's why I
13 was thinking aloud. But I appreciate what you had to say,
14 Commissioner, because it started me to kind of thinking about
15 that, is that how do we balance that? And then in the process
16 of balancing that, if we do go down this road, how do we
17 ascertain which calls were legitimate calls versus which calls
18 were, were to, to safeguard the public and judges and witnesses
19 and all like that? And we don't, I don't, I don't see that
20 before us here.

21 Commissioner Argenziano, then Commissioner McMurrian,
22 then Commissioner Skop.

23 COMMISSIONER ARGENZIANO: Okay. And I guess, you
24 know, if I had some kind of technical understanding or support
25 to say, because, you know, we may have a system, it may work in

1 other places. I need to know that. If it's pretty much the
2 same, just using technical, like I said, doohickies or whatever
3 they're called. But it may be and it may come down to, and I'm
4 not saying it is, it may be that you can't have 100 percent
5 nondrops of the, of the normal calls. That may be the case.
6 And if that's the case, well, then because of the situation,
7 you have lives at stake and so on and so on, and I understand
8 that. But as you said, without having that information, how
9 would I know? And I think that it would be our obligation to
10 somehow try to find out if the system can function that way and
11 if the company has done all they can or if they have not, and I
12 think that's what it comes down to. If they can do more and
13 they have not, well, then I need information because I don't
14 want to let them get away with dropping normal calls. And so
15 the information that's not here I think is what we're really
16 coming to the conclusion that we need.

17 CHAIRMAN CARTER: Thank you.

18 Commissioner McMurrian, then Commissioner Skop.

19 COMMISSIONER McMURRIAN: Thank you, Chairman. And I
20 know the company has heard all of us talk about our concerns
21 with sort of the quagmire I think that they find themselves in
22 in trying to make sure that they address the needs of the
23 correctional facility and also the needs of the good people who
24 are, who are trying to talk to their loved ones who happen to
25 be incarcerated. And so I wanted to ask the company this. Is

1 there some way that we can focus on getting the problem fixed
2 such that it addresses this concern? And I guess I even ramp
3 up in that because of my concerns about what our rules say.
4 And I think it's, for me it's a little unclear. I'm not sure
5 if it's unclear for the parties, but I can see where it might
6 be unclear to the people who are tasked with abiding by our
7 rules what exactly the direction is. Is there a way to get,
8 get the larger problem fixed and make sure that this, this
9 concern is, is put to bed, we don't have anymore concerns about
10 dropped calls, at least not some inordinate number, and also
11 give clear direction to parties such as yourself that are
12 supposed to abide by our rules? I just want to throw that out.

13 MR. KISE: Mr. Chairman, if I may.

14 CHAIRMAN CARTER: Mr. Kise.

15 MR. KISE: Let me answer that in a couple of ways.
16 First, I think part of the challenge that the companies are
17 facing here is sort of the presumption in, in the staff
18 analysis and the way they presented this issue that we haven't
19 tried. I mean, this has been going on for years. There's been
20 a lot of discussion back and forth. There's been a lot of
21 movement of the numbers up and down. This is not an easy
22 problem to solve. And to simply say in a conclusory way that
23 the companies have done nothing to address this really isn't,
24 it's just not right. I mean, we have. I mean, there's been --
25 now they've had, we've had software changes and as recently as

1 January '08 of this year there's been software changes,
2 additional software changes. This is a very difficult problem
3 to solve. This balance is very, very tricky to strike. And,
4 yes, as I began today by saying it's not a perfect system, it's
5 not possible to create one. But finding that sort of place is
6 the challenge of the companies and the prison system itself.
7 And, and when we've been faced with directives from the prison
8 system and issues related to safety and security, we've kind of
9 erred on the side of safety and security. And I think that's
10 the right -- you know, if you're going to make an error, that's
11 the right way to make the error.

12 As to solving a problem, one, there has been software
13 modifications. And, two, there has been a willingness on the
14 part of the companies. In fact, the one settlement offer that
15 is very briefly discussed in the staff recommendation included
16 this concept of setting up some sort of fund to help deal with
17 those that may be improperly disconnected. But for whatever
18 reason -- and nothing that we say here today, and I think it's,
19 I need to make this point, the companies are not being critical
20 and I'm not being critical of staff. I'm really not. We just
21 have a disagreement as to what the facts are and how we got to
22 these conclusions, but they're obviously doing their job. And
23 so to Commissioner Argenziano's point, they are in fact. And
24 so I don't want to -- we're not trying to be critical. It's
25 just that we have a disagreement.

1 And where the breakdown happened, and clearly there
2 was one in terms of resolving this, it happened, and this isn't
3 an excuse, it's an observation, it happened before I ever got
4 involved in this. I mean, a long time ago there was some
5 disconnect for whatever reasons, and you listen to one side,
6 you'll hear one story, and you listen to the other side, you'll
7 hear another story, as to why this hasn't been able to be
8 resolved sort of in an amicable way.

9 But the companies remain willing to explore these
10 options of dealing with exactly Commissioner McMurrian's point,
11 which is how do we strike the balance? We recognize that it's
12 never going to be a perfect balance, and then how do we deal
13 with the issue of people who had calls that were legitimate
14 calls that were, in fact, dropped and who bears the burden of
15 that? And, remember, that also the correctional facility plays
16 a role in this because they get, you know, they, they
17 participate in the revenue, they participate in the revenue so
18 that they need to be involved. And this goes back to Chairman
19 Carter's point about, you know, bringing this into a hearing
20 and moving this out this way involves in a very significant way
21 bringing the prison system front and center in Miami-Dade away
22 from their principal day job to talk about how they deal with
23 fraud and abuse and phone settings in that context.

24 But the shorter answer to the question, and I rarely
25 have one, the short answer to the question is -- you're all

1 thinking it, so I'm going to -- the short answer to the
2 question is we're willing to explore that. And to say that we
3 haven't been doing anything is just not right. We have.

4 MR. SELF: And to directly answer your question,
5 Commissioner McMurrian.

6 CHAIRMAN CARTER: Briefly, Mr. Self. Briefly, Mr.
7 Self, and then Commissioner Skop.

8 MR. SELF: The entire system was completely swapped
9 out. So whereas before you had T-Netix or Securus in there
10 with their equipment, all of that is gone. The hardware, the
11 software, the phones, everything has been changed out. It's
12 now completely under the domain and jurisdiction of Global
13 Tel*Link. So it is a totally different system and it's one
14 that they're using in other facilities around the country. So
15 at least with respect to that, if you believe something was
16 wrong with the other system, it's totally and completely gone:
17 Hardware, software, phones, everything.

18 CHAIRMAN CARTER: Commissioner Skop.

19 COMMISSIONER SKOP: Thank you, Mr. Chair.

20 And to piggyback on Commissioner McMurrian's question
21 and also to Mr. Kise's response, I guess from what I've read on
22 Page 9 in the staff recommendation that TCG for settlement
23 purposes only has attempted to make a settlement offer in good
24 faith to resolve and recognize that there may have been some
25 customers who received calls that may have been terminated

1 prematurely pursuant to, to the staff discussion. Is that
2 settlement offer still on the table?

3 MR. KISE: Yes. And there have been subsequent
4 discussions to the, what's presented here. But the short
5 answer to your question is, yes, there's still a willingness to
6 resolve this in that fashion.

7 COMMISSIONER SKOP: And I think that would go a long
8 way to addressing some of the concerns my colleagues have
9 expressed about, you know, the moms and pops that are trying to
10 make calls and, to their family and getting inadvertently
11 dropped. And I'm not sure what the dollar amount should be.
12 Again, I'm just speaking out loud.

13 And the other concern seems to be on a forward-going
14 basis working with staff and Miami-Dade and the parties getting
15 together to monitor and tweak the sensitivity. I think, as
16 Mr. Self has expressed, the entire system has been changed out
17 recently and hopefully one would expect to see some lessons
18 learned and improvements upon past performance. But, again, it
19 seems to me to some extent, and collectively listening to what
20 my colleagues have stated, that there needs to be that
21 balancing between recognizing that, that security issues are in
22 place to prevent fraud. The system is not perfect, I'm not a
23 software engineer, so I don't know what tweaks are possible
24 just like Commissioner Argenziano, I like to play with rockets
25 and planes, but it seems to me like that, that might be just an

1 idea to throw out there that something between a settlement
2 offer of some nature and a good faith effort to work together
3 to address the problem on a forward-going basis might, I think,
4 maybe mitigate some of the concerns I've heard. But if I'm
5 wrong, please, somebody step in.

6 CHAIRMAN CARTER: Thank you, Commissioner.
7 Commissioner Edgar.

8 COMMISSIONER EDGAR: Just a comment because I'm still
9 thinking it through as well.

10 You know, one -- as we've all discussed, the company
11 in my mind, and I think I'm hearing similar from other
12 Commissioners, the company should not benefit financially
13 through customers having to make additional calls, pay
14 additional money because of a problem with the technology or
15 the communication or, or whatever the problem ultimately was.
16 But one of -- so there are two points I'm struggling with.

17 One, my reading of this and discussing it with staff
18 seem to be that there was some difficulty in this Commission
19 getting information that they needed to do the analysis that
20 our staff felt needed to be done from complaints and issues
21 that had been identified, and, and that is a problem in my mind
22 when I'm trying to think about what is a good, good and
23 appropriate resolution. So that's one factor that we haven't
24 really heard. But when we're hearing, you know, two sides, we
25 don't have all the information, we understand that. But yet

1 there seems to have been some difficulty in getting the
2 information that the staff needed. So that's one point.

3 And the second point is although I know we all
4 recognize that general revenue needs every dollar that can go
5 into it, yet having any amount, whether it be the amount that's
6 recommended by staff or some other amount, is somehow
7 unsatisfying as a resolution to me because it doesn't really
8 seem to address the problems that have been identified. And I
9 understand that, that with the amount of data and the
10 technology, that to go back to individual refunds is probably
11 just really not realistic and I do understand that. So I guess
12 I'm struggling with that, the concern in my mind that there was
13 not really the cooperation perhaps that we would expect.

14 Secondly, that the company should not get whether
15 it's \$7 million or some other amount that they would not have
16 received from customers if indeed all systems were working
17 closer to perfectly.

18 But, third, what is a good, fair and effective and
19 efficient resolution? And I have some concern that going to
20 hearing is going to get us a whole lot closer to that. I'm not
21 sure that it will. On the other hand, sometimes setting for
22 hearing does spur settlement negotiations and that is somewhat
23 appealing. So I'd just throw that out as a couple of comments,
24 and I welcome feedback.

25 COMMISSIONER SKOP: Mr. Chair.

1 CHAIRMAN CARTER: The problem -- I'll come to you in
2 a minute -- is, you know, if there were people harmed, they're
3 not going to benefit from the settlement. I mean, how do we
4 identify -- I'm not asking you. I'm just thinking aloud. I'll
5 come to you in a minute, Commissioner. Commissioner Argenziano
6 and then Commissioner Skop.

7 COMMISSIONER ARGENZIANO: Okay. I think that's the
8 problem we're having is we don't have -- how do you -- if we
9 just finished saying we really don't have the information
10 before us to make a determination, the, the -- you can't get to
11 the heart of the, or you can't solve the problem unless you get
12 to the heart of the problem.

13 I don't know if the company can be 100 percent or
14 close to that and I'm not, I'm not asking them to be. But I
15 need to know can it be done better? If it can't be done
16 better, then why are they responsible for something that needs
17 to be in place?

18 So, and to the other point, you know, I also think
19 that if there is restitution to be made, that, I'm sorry, AT&T,
20 but I think AT&T has a larger share than anybody else has if
21 you look at the numbers and the time frame. So I wouldn't want
22 to alleviate them from that because they sold the company when
23 things were really hot. So I'd like to -- you know, I'm
24 speaking what I read and see, and I believe that that has to be
25 put into that equation too if there is restitution to be paid.

1 Because it could be also that AT&T had the same problem that
2 we're seeing now, they couldn't get there for technical
3 reasons. But without that information I don't know how you'd
4 do anything today to solve the problem that you can't get the
5 information to tell you what was really at the heart of the
6 problem.

7 CHAIRMAN CARTER: Before I go to Commissioner Skop,
8 Linda, can you hang for just a little bit longer? I know we've
9 been going for almost three hours and have not given, have not
10 given our court reporter a break. I usually do that on an hour
11 or so. But if you'd just hang for a little longer. Thank you.

12 Commissioner Skop.

13 COMMISSIONER SKOP: Thank you, Mr. Chairman. Just
14 two points in regards to the two comments that were just made.
15 I tend to think that I agree with Commissioner Edgar's comment,
16 and I think that she was perhaps, if I'm, correct me if I'm
17 wrong, referring to Issue 4 about the fact that perhaps staff
18 was trying to get information and they weren't able to do so.
19 And I think that kind of, some of that may be implied in what I
20 had my colleagues look on on Page 39. I'm not, not so sure
21 what to make of that. But certainly, you know, staff was in
22 the process of conducting an ongoing investigation and it
23 seemed that there were hiccups there. So I think that
24 Commissioner Edgar's point is well-taken.

25 Commissioner Argenziano's point about whether or not

1 to bring AT&T into the proceedings as an indispensable party, I
2 agree with the point made that at least from the data matrix
3 I've seen the majority of this happened prior to the sale of
4 assets.

5 I guess what I struggle with is that this was an
6 asset purchase agreement, which is probably a legal issue best
7 left to the parties between what is, what's assumed as a
8 business liability or an excluded liability versus -- I've
9 heard the TCG argument about that it was, let me find my note,
10 basically an excluded accounts payable. And I think one is a
11 legal sense issue, the other one is an accounting sense, and I
12 think that kind of turns on when somebody knew they might have
13 an obligation and took a reserve or a contingency in
14 anticipation of some legal obligation occurring in the future.

15 So, again, I think I agree with our General Counsel;
16 sometimes it's best not to get in the hairy issues. We look at
17 the contract to ascertain obligations, but performance is kind
18 of relevant.

19 So I'm not sure what to make of that. I know that
20 that was a tension as to whether AT&T should be joined as an
21 indispensable party. I know that there was some discussion
22 held earlier. But, again, I think that clearly the data I've
23 seen shows that the majority of this happened prior to the sale
24 of the assets. And as far as who's responsible, I don't know.
25 That sounds like a civil action to me, but I could be wrong. I

1 think Mr. Kise wants to comment.

2 MR. KISE: Less than 60 seconds. I promise.

3 CHAIRMAN CARTER: Briefly. Yes.

4 MR. KISE: One suggestion that I think addresses a
5 lot of what the Commissioners are discussing here is a
6 suggestion that we have made and discussed thoroughly, at least
7 with Mr. Cooke I have, is this concept of mediation, is the
8 concept of sending this to a neutral arbiter. We've suggested
9 a person that I think would be acceptable to the Commission who
10 has a long history of issues here. This is a little unusual
11 because the opposing party is essentially the Commission
12 itself, but that may be a way short of a full hearing, which I
13 would suggest is an extraordinary waste of resources, to get to
14 maybe, to think sort of outside the box as to how do we not
15 only fix what happened before but, but maybe address things in
16 the future, see where we are. I mean, there's just a great
17 deal of issues here that I don't think a hearing is ever going
18 to address. And we're certainly willing, we've even suggested
19 we'd be willing to pay for the mediator so that the Commission
20 doesn't have to pay the usual 50 percent of the mediator costs,
21 and it's something that could be done in a day or two as
22 opposed to weeks or a week or weeks of Commission time. We're
23 willing is the point.

24 CHAIRMAN CARTER: Chairman Argenziano.

25 (Audio system noise.)

1 Move it first, move it first, then turn it on.

2 COMMISSIONER ARGENZIANO: Okay. There we go. I
3 didn't even touch it. I just turned it on. It doesn't like to
4 be over there.

5 I understand why you want to go to mediation, but
6 that seems to be taking it away from the Public Service
7 Commission. I'd never have the answers to the questions that
8 we're having today. And I understand the expense at going to
9 the full hearing, and that really is, that does disturb me too
10 because it's expense on the PSC's part, the company's part.
11 But I'd love to find out is there a way to have some type of
12 arbitrator and then come back to the Public Service Commission
13 with some answers to some of the questions? I mean, there are
14 a few questions here, maybe two or three questions that need to
15 be answered for me as an individual Commissioner. And if that
16 could be done instead of -- I mean, it's kind of like saying,
17 well, you do the job. And I'd rather us know what the outcome
18 was. If it can be done that way to save money and time and the
19 answers to the questions that remain here, come back to us,
20 that would be preferable.

21 MR. KISE: It would need to, as my understanding of
22 the process, it would need to anyway. In other words, the
23 mediation would not be -- the settlement couldn't be reached
24 without the Commission's approval, and so it would need to come
25 back. And to the extent you have questions, I mean,

1 procedurally I see no reason why your aides can't even
2 participate in the process of mediation, at least to the extent
3 that you have specific questions that you need answered, and
4 work with the mediator, whomever it may be, that's
5 satisfactory. But, yes, the short answer is I think you could
6 get your answers that way.

7 COMMISSIONER ARGENZIANO: Mr. Chair.

8 CHAIRMAN CARTER: Yes. And I want to hear from
9 Mr. Cooke too at the appropriate time. Go ahead.

10 COMMISSIONER ARGENZIANO: And I think if that could
11 be done that way with having our -- I'd hate for it to come
12 back after that and the questions still remain because then
13 we're really in trouble. So if that could be done, I would, I
14 would opt to do that because it would save time and money and
15 get to the heart of the problem. Maybe you could have people
16 sitting around the table, you know, pulling things in and out,
17 getting the information back to us that we need to make a final
18 determination.

19 CHAIRMAN CARTER: Mr. Cooke.

20 MR. COOKE: Mr. Kise and I have discussed the
21 potential for mediation. And as he pointed out, there's never
22 been a circumstance -- well, he didn't point this out. But to
23 the best of my knowledge, there's never been a circumstance
24 where the Commission itself was a party to a mediation. That's
25 not to say we can't do that. And as he stated, it's my opinion

1 that any mediation that occurs we have to bring back to you.
2 Staff is not the decision-maker. You are. So whatever result
3 would come out of that would be brought back at a future agenda
4 for you all to, to address. Now whether we would be able to
5 answer the kinds of questions that are needed answering, I
6 can't guarantee that.

7 CHAIRMAN CARTER: Commissioner Argenziano.

8 COMMISSIONER ARGENZIANO: Well, that's my point. If
9 we have standing in the mediation, if I send my aide and ask, I
10 want certain questions answered, if that can't be done, I need
11 to know upfront because then it doesn't solve the problem of
12 getting the answers to the Commission.

13 CHAIRMAN CARTER: I think staff could take the
14 questions that we have raised here at the bench and take those.
15 Mr. Cooke, is that correct, rather than --

16 MR. COOKE: We definitely can take the information
17 that we've heard here today and try to craft issues and
18 questions, et cetera. Offhand I, offhand I don't see a reason
19 why your aides could not be part of this process. We'd have to
20 be careful about not communicating back and forth with you on
21 that.

22 CHAIRMAN CARTER: I just think it would be cleaner,
23 this is just my opinion, I think it would be cleaner, if you,
24 staff just take our recommendation --

25 MR. COOKE: Yes.

1 CHAIRMAN CARTER: -- you heard here from the bench,
2 don't even put our assistants in that posture.

3 COMMISSIONER ARGENZIANO: Right.

4 CHAIRMAN CARTER: You already, you heard loud and
5 clear what the questions are from the bench.

6 COMMISSIONER ARGENZIANO: Well, Mr. Chair, to your
7 point, have the mediators or the arbitrators understand, have,
8 you know, a statement from the Commission saying these are our
9 remaining concerns or these are concerns that we would hope in
10 your mediation you would address and bring back to us. And I
11 don't think there could be any misunderstanding about that, so.

12 CHAIRMAN CARTER: Mr. Cooke.

13 MR. COOKE: I believe there's been a lot of
14 discussions today that's providing us insights as to what you
15 would like to have answered, and based on that we can craft an
16 approach to mediation. Just -- I'll leave it at that. Yes.

17 CHAIRMAN CARTER: Commissioners, I mean, I want to
18 make sure that we're all --

19 MR. COOKE: Mr. Chairman.

20 (Audio system noise.)

21 CHAIRMAN CARTER: Yes, sir. Mr. Cooke.

22 COMMISSIONER ARGENZIANO: I sent it your way.

23 MR. COOKE: Thanks.

24 There are two separate approaches to this. There
25 are -- we compartmentalize the potential for a show cause and I

1 suppose legally we could mediate those issues as well. I'm not
2 sure from a policy standpoint whether you want us dealing with
3 those issues in a mediation process because essentially we're
4 alleging violations.

5 One suggestion for approaching this would be simply
6 to defer this item, to not reach a decision on it on any of the
7 issues, to direct us to go to mediation and then to come back
8 at a future agenda.

9 CHAIRMAN CARTER: Commissioners?

10 COMMISSIONER EDGAR: Just so -- thank you.

11 CHAIRMAN CARTER: Commissioner Argenziano first,
12 then I'll come -- Commissioner Edgar.

13 COMMISSIONER EDGAR: I'm just -- help me somebody.

14 What is the benefit of deferring and going to an
15 outside mediator, albeit an excellent one, versus deferring and
16 directing our staff and the parties to sit down and, gosh darn
17 it, come back with a proposal? I have yet to hear an
18 alternative proposal from what staff has proposed. And it may
19 be that what staff has proposed is exactly the right thing.
20 But as has been discussed, we have, there are questions, there
21 are some unknowns. I do have some concern about the fact that,
22 that, that perhaps information was not forthcoming as rapidly
23 as maybe it could have, and I realize that was an
24 after-the-fact concern. But I guess if there is a real benefit
25 to going to an outside mediator, I'd like to hear a little bit

1 more about what that, in a moment, a little bit more about what
2 that benefit would be. And realizing if indeed we sent it back
3 asking our staff and the companies to sit down and just try to
4 hammer something out with answers and fill in some information
5 gaps and that didn't resolve, a mediator would still be an
6 option, I think. And so let me just throw that out and see if
7 I can get some clarity.

8 CHAIRMAN CARTER: Mr. Kise.

9 MR. KISE: Again briefly, the advantage is really I
10 think a meaningful one here. There has been, for whatever
11 reason -- first, let me say that I think that it is a gross
12 overstatement, if not a complete inaccuracy, that there was a
13 lack of cooperation. That is a view of staff that, that we
14 clearly do not share. And I'm the newest comer to the party
15 here and even from my review of it it doesn't appear that
16 that's accurate. There does appear, however, to be a great
17 deal of personalities, as happens in cases that tend to linger
18 for a long period of time, invested in this on both sides that
19 would, I think, benefit materially, both sides, from an
20 independent sort of person who has the respect of everyone
21 saying, wait a minute, now you just settle down here and you
22 settle down there.

23 I mean, the normal reason that you have a mediator is
24 essentially the answer. The reason that you go to someone who
25 can kind of referee, if you will, and dissect through the

1 passion and the, the sort of vested positions that both sides
2 clearly have here when you have what just you see in the
3 record, irrespective of the other conversations, \$175,000 and
4 \$7.5 million, it's pretty easy to see that the parties are
5 fairly well apart. And, and there has been considerable
6 discussion moving in that direction, but there just -- without
7 the mediator, I don't know that it's possible to gain, you
8 know, to engage in a meaningful resolution process that would
9 be productive and save this Commission time and resources
10 ultimately.

11 CHAIRMAN CARTER: Commissioner Argenziano.

12 COMMISSIONER ARGENZIANO: Mr. Chair, I think after
13 the discussion here today, with, with due respect to what
14 Mr. Kise just said, I understand that could be a possibility.
15 But what Commissioner Edgar just suggested, given the fact that
16 staff has heard our concerns and the information we would like
17 to have the company submit, help in submitting that
18 information, and then if we couldn't get somewhere, then go to
19 mediation. I don't think that, that sends that away.

20 I think it behooves the company and staff to work
21 together to try to solve -- staff has done their job, looked at
22 legitimate problems, and now the company heard the concerns.
23 We'd like to know the technical part of that. I'd like to see
24 some maybe working together, of course. I think Commissioner
25 Edgar -- (Audio system noise.) Yeah. Okay. That's enough. I

1 agree. I think Commissioner Edgar came up with a good
2 suggestion with the understanding that if that doesn't work,
3 then it has to be the mediation. Hopefully maybe we can get
4 something done.

5 CHAIRMAN CARTER: Commissioners, before I go back to
6 Commissioner Edgar to kind of craft her idea, let me hear
7 from -- I've heard from Commissioner Argenziano. Commissioner
8 Skop, I'll start with you, then Commissioner McMurrin.

9 COMMISSIONER SKOP: I'm just happy in the direction
10 we're going. I think Commissioner Edgar spoke to the direct
11 result as opposed to farming it out to mediation or
12 arbitration. I think Commissioner Argenziano has kind of
13 concurred with that, and I think that's a good direction to go.

14 I think there are some concerns here. I don't know
15 what the dollar amount would be, but compromised settlements
16 are always a good thing, and just leave it at that.

17 CHAIRMAN CARTER: Commissioner McMurrin.

18 COMMISSIONER McMURRIAN: Thank you, Chairman.

19 I do agree that there's a considerable amount of
20 passion on both sides of this issue. I think that mediation
21 would be a fair way to do it. However, I do think that it is
22 worth a try to have the, both sides, although I hate to call it
23 sides in this particular instance because it is staff and a
24 regulated entity, but, again, I think that's where we are, to
25 try to have both sides work something out. And as Commissioner

1 Edgar rightfully suggested, we always have that option to send
2 it to mediation later.

3 But I do ask, and I think it's probably clear from
4 what I just said, that both sides try to set aside some of
5 what's happened in the past. I know that that's not entirely
6 possible. But I think the, the point that I was trying to make
7 and what I said earlier is I would like to move forward, try to
8 get the problem fixed as much as possible, recognizing it is
9 not a perfect system. I do agree with that and that the safety
10 and security should be the first and foremost goal, I think,
11 when facilities look at this phone system issue. But I do
12 agree that it is worth, worth a try to try to do that first,
13 and then we always have that option of mediation later.

14 Thank you, Chairman.

15 CHAIRMAN CARTER: Commissioner Edgar, before I come
16 back to you, I just want to confess that I am a fan of Monday
17 Night Raw, WWF. So I say, you know, we could probably take
18 someone to the mat and do what we need to do. But in the
19 spirit of cooperation, I recognize you for your motion.

20 COMMISSIONER EDGAR: Thank you, Mr. Chairman. And
21 I'm trying to pull up a calendar so I can see if we maybe want
22 to talk about time frame.

23 From the discussion that we've had today, we've
24 talked about the fact that there are some unresolved issues.
25 The parties have expressed a willingness to cooperate with our

1 staff and with the concerns that the Commission has raised, and
2 I'm very appreciative of that. I have a great deal of
3 confidence that with our excellent staff and the excellent
4 representation that the parties have that some questions and
5 some additional information can be, some questions can be
6 answered and additional information supplied.

7 I would then ask in a motion that we defer a decision
8 on this item at this time and direct the parties and our staff
9 to work together, taking into consideration the comments from
10 the bench today. And I would like to look forward to perhaps
11 what, and I'll look to staff to help, but I'm thinking 30 days.
12 So however to put that so 30 days for staff and the parties and
13 then to come back to us perhaps with a status report. And if
14 there's a --

15 CHAIRMAN CARTER: Let's ask -- hold on before the
16 second.

17 Staff, what kind of work -- I want to make sure
18 they've got the right opportunity work-wise, work-wise to be
19 able to accommodate that.

20 MS. SALAK: I think that we can certainly try to
21 accomplish everything you want within 30 days. And, again, if
22 we can do a status report, if we could just contact the
23 Commissioners, if we're making progress, things are going, you
24 know, moving forward, if we can just let you know in 30 days if
25 we're not ready to come to agenda quite but we're still working

1 and making progress.

2 CHAIRMAN CARTER: Excellent. Could we get a second?

3 COMMISSIONER SKOP: Second. And also too just
4 quickly I'd like to commend staff for their, their work on
5 this. I know without that extra effort at the end we wouldn't
6 be nearly as far as we are on that. But thank you.

7 CHAIRMAN CARTER: Commissioners, it's been moved and
8 properly secondly. Anything further? Hearing none, all those
9 in favor, let it be known by the sign of aye.

10 (Unanimous affirmative vote.)

11 All those opposed, like sign.

12 And, Linda, I appreciate your tenacity, speaking of
13 WWF.

14 MR. SELF: Mr. Chairman, can I collect up the yellow
15 pages that were passed out, please?

16 CHAIRMAN CARTER: Okay.

17 MR. SELF: Thank you.

18 CHAIRMAN CARTER: Commissioners, here's the plan.
19 We're going to give the court reporter a break. And also we've
20 got some technical, give technical staff an opportunity to deal
21 with our sound system here. We'll be back at 20 after.

22 (Agenda Item 7 concluded.)

23

24

25

1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

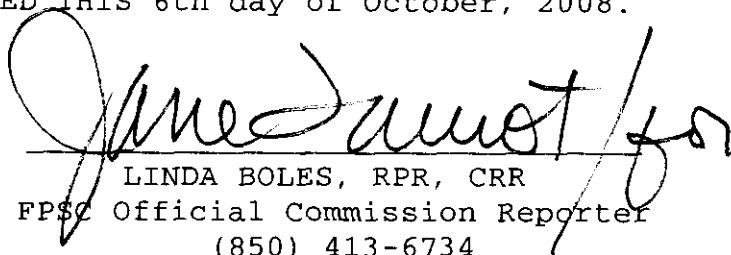
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I, LINDA BOLES, RPR, CRR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes 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' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 6th day of October, 2008.


LINDA BOLES, RPR, CRR
FPSC Official Commission Reporter
(850) 413-6734

Dade county's 3-way issue

Docket No. 060614-TC
TCG Supp. Confidential Response
December 15, 2006
Page 6 of 195 [4]

1st
Handout
Part 1 Staff
Internal Affairs Agenda
on 9/29/08
Item No. 7
060614-TC

4

From: Teruel, Adelaida (Ada), CSSVC
Sent: Thursday, December 04, 2003 9:31 AM
To: Walsh, JoAnn, CSSVC; Audrey CMOPM Lepchitz (E-mail)
Cc: Kim (MDCR) (305) 229-7574 Brown (E-mail)
Subject: FW: Dade county's 3-way issue
Importance: High

Audrey and JoAnn,

Due to the on-going abuse by inmates and family members our customer Miami-Dade Corrections and Rehabilitation Department has requested the sensitivity levels to increase to 35%, we understand this will cause an increase in the number of calls/complaints to our Billing Department, however this will also alleviate the fraud and harassment caused by inmates.

Miami Dade Corrections has advised the inmates of the increase levels and the effects this will cause if any 3-way-attempts are made.

Any questions feel free to call me.

Thank you,

Ada Teruel

AT&T Public Markets
Office: 305-828-9605
FAX: 281-664-4910
Cell: 305-205-3679
E-Mail: teruel@att.com

3

-----Original Message-----

From: Brown, Kim (MDCR) (305) 229-7574 [mailto:KBROWND@miamidade.gov]
Sent: Wednesday, December 03, 2003 12:52 PM
To: Teruel, Adelaida (Ada), CSSVC; Mike Delucia (E-mail); Larry Batts (E-mail 2)
Cc: Brophy, Frank (MDCR) (305) 229-7548
Subject: FW: Dade county's 3-way issue
Importance: High

Good afternoon Ada,
Per our discussion today, we are confirming since the incident of an inmate calling Ms. Brown's office on 11/21/03 via three-way, the level of 25% setting was not effective. Larry Batt's recommend level of 35% was requested on 11/25/03 for the three-way.

We will continue to track the statically findings supplied and make suitable adjustment.

Thank you.

Kim Brown
Miami-Dade Corrections & Rehabilitation Dept.

-----Original Message-----

From: Brown, Kim (MDCR) (305) 229-7574
Sent: Friday, November 07, 2003 3:26 PM
To: 'Mike DeLucia'; Ada Teruel (E-mail)
Cc: Larry Batts; Dick Stadler
Subject: RE: Dade county's 3-way issue
Importance: High

Good afternoon Mike

We are confirming that we have reviewed this issue and would like to have the level set for all facilities at 25%. This should start on Monday, November 17th, 2003.

We need a review of the statistical foundings after 30 days, then another review for statistics and possible level adjustments for each facility 30 days after the first report.

Please confirm the heat ticket numbers for each facility and who will handle this project out of the NSC.

Thank you.

Kim Brown
Miami-Dade Corrections & Rehabilitation Dept.

-----Original Message-----

From: Mike DeLucia [mailto:Mike.DeLucia@t-netix.com]
Sent: Thursday, October 09, 2003 2:08 PM
To: Ada Teruel (E-mail); Brown, Kim (MDCR) (305) 229-7574
Cc: Larry Batts; Dick Stadler
Subject: Dade county's 3-way issue
Importance: High

Good afternoon:

Here is the information on our current 3-way settings for Dade County, which you requested during our meeting today.

Pre-Trial= 25%
MetroWest, Women's, North Dade, & Jackson= 23%
TGK= 22%

Speaking with Larry Batts prior to our meeting, he suggested that a range of 30 to 35% would eliminate a lot of the 3-way issues that are presently occurring in Dade. By adjusting the levels of 3-way to this percentage range the county will incur increased complaints on cut-offs, but it will discourage the 3-way abuse. After a 3 month period we can revisit this adjustment and decide what percentage is best suited for the Dade County facilities. Kim, please advise us on when you'd like to make this adjustment and at what percentage you would like to start at.

Thank you,

Michael DeLucia
T-Netix, Inc.
Customer Support Manager
(O) 954-322-5180
(C) 305-726-6959

From: Teruel, Adelaida (Ada), CSSVC
Sent: Monday, December 22, 2003 11:37 AM
To: Larry Batts (E-mail); Mike DeLucia (E-mail)
Cc: Walsh, JoAnn, CSSVC; Edwards, Ronald J (Ron), CSSVC
Subject: FW: 3-way at PTDC

⑧ Larry and Mike,
Now we have the formal request.

Thank you,
Ada

-----Original Message-----

⑦ From: Brown, Kim (MDCR) (305) 229-7574 [mailto:KBROWND@miamidade.gov]
Sent: Monday, December 22, 2003 11:04 AM
To: Teruel, Adelaida (Ada), CSSVC; Larry Batts (E-mail 2)
Cc: Brophy, Frank (MDCR) (305) 229-7548; Mike Delucia (E-mail); Edwards, Ronald J (Ron), CSSVC; Walsh, JoAnn, CSSVC
Subject: RE: 3-way at PTDC

Good morning Ada,

43% is exactly what is needed at this time for PTDC and we will evaluate all the facilities again for the New Year, once we are provide updated comparison stats.

Thank you.

Kim Brown
Miami-Dade Corrections & Rehabilitation Dept.

-----Original Message-----

⑥ From: Teruel, Adelaida (Ada), CSSVC [mailto:teruel@att.com]
Sent: Monday, December 22, 2003 10:47 AM
To: Brown, Kim (MDCR) (305) 229-7574; Larry Batts (E-mail 2)
Cc: Brophy, Frank (MDCR) (305) 229-7548; Mike Delucia (E-mail); Edwards, Ronald J (Ron), CSSVC; Walsh, JoAnn, CSSVC
Subject: RE: 3-way at PTDC

Good morning Kim,

We have your letter stating at 35%, my understanding at the present time Pre-Trial is at 43% any tighter it will cause many calls to be dropped just by breathing this will cause complaints to the Florida PSC.

Please advise what percentage is Miami-Dade County requesting 3-way to be set at.

Thank you and Happy Holidays!

Ada Teruel
AT&T Public Markets
Office: 305-828-9605
FAX: 281-664-4910
Cell: 305-205-3679
E-Mail: teruel@att.com

-----Original Message-----

⑤ From: Brown, Kim (MDCR) (305) 229-7574 [mailto:KBROWND@miamidade.gov]

Sent: Monday, December 22, 2003 10:14 AM

To: Larry Batts (E-mail 2)

Cc: Brophy, Frank (MDCR) (305) 229-7548; Teruel, Adelaida (Ada), CSSVC; Mike Delucia (E-mail)

Subject: 3-way at PTDC

Good morning Larry,

Sorry for the delay in confirm the need for further adjustment at PTDC, I have been out sick.

Per our conversation over a week ago, I am confirming that we still need PTDC 3-way tighten a little more, as that facility is the most prevalent offender of the system.

Thank you

Kim Brown
Miami-Dade Corrections & Rehabilitation Dept.

5
UM

	A	B	C	D	E	F	G	H	I	J	K	L
1	Facility: DGK				Facility DPT				Facility DWD			
2	CDR Records			Email Reported								
3	Calls from 2003/11/17 to 2003/11/23				Calls from 2003/11/17 to 2003/11/23				Calls from 2003/11/17 to 2003/11/23			
4	Sensitivity Setting: 25%				Sensitivity Setting: 25%				Sensitivity Setting: 25%			
5	All Calls			16,450	All Calls			12,350	All Calls			1,959
6	130 Calls Only			2,035	130 Calls Only			1,684	130 Calls Only			286
7	3-Way Call Percentage			12.37%	3-Way Call Percentage			23.92%	3-Way Call Percentage			14.60%
8												
9	Calls from 2003/11/24 to 2003/12/01				Calls from 2003/11/24 to 2003/12/01				Calls from 2003/11/24 to 2003/12/01			
10	Sensitivity Setting: 35%				Sensitivity Setting: 35%				Sensitivity Setting: 35%			
11	All Calls			19,350	All Calls			18,661	All Calls			2,964
12	130 Calls Only			4,751	130 Calls Only			4,462	130 Calls Only			668
13	3-Way Call Percentage			24.55%	3-Way Call Percentage			42.57%	3-Way Call Percentage			22.54%
14												
15	Calls from 2004/01/17 to 2004/01/23				Calls from 2004/01/17 to 2004/01/23				Calls from 2004/01/17 to 2004/01/23			
16	Sensitivity Setting: 38%				Sensitivity Setting: 43%				Sensitivity Setting: 39%			
17	All Calls			17,081	All Calls			14,423	All Calls			1,901
18	130 Calls Only			3,443	130 Calls Only			3,701	130 Calls Only			403
19	3-Way Call Percentage			20.16%	3-Way Call Percentage			25.66%	3-Way Call Percentage			21.20%
20												
21	Calls from 2004/05/17 to 2004/05/23				Calls from 2004/05/17 to 2004/05/23				Calls from 2004/05/17 to 2004/05/23			
22	Sensitivity Setting: 38%				Sensitivity Setting: 43%				Sensitivity Setting: 39%			
23	All Calls			17,056	All Calls			16,601	All Calls			2,502
24	130 Calls Only			3,137	130 Calls Only			3,458	130 Calls Only			381
25	3-Way Call Percentage			18.39%	3-Way Call Percentage			20.83%	3-Way Call Percentage			15.23%
26												
27	Calls from 2004/08/17 to 2004/08/23				Calls from 2004/08/17 to 2004/08/23				Calls from 2004/08/17 to 2004/08/23			
28	Sensitivity Setting: 38%				Sensitivity Setting: 43%				Sensitivity Setting: 39%			
29	All Calls			18,867	All Calls				All Calls			
30	130 Calls Only			2,931	130 Calls Only				130 Calls Only			
31	3-Way Call Percentage			15.54%	3-Way Call Percentage				3-Way Call Percentage			
32												
33	Calls from 2004/09/17 to 2004/09/23				Calls from 2004/09/17 to 2004/09/23				Calls from 2004/09/17 to 2004/09/23			
34	Sensitivity Setting: 38%				Sensitivity Setting: 38%				Sensitivity Setting: 38%			
35	All Calls			18,788	All Calls				All Calls			
36	130 Calls Only			3,503	130 Calls Only				130 Calls Only			
37	3-Way Call Percentage			18.64%	3-Way Call Percentage				3-Way Call Percentage			

Parties Staff Handout
 Internal Affairs Agenda
 on 9/29/08
 Item No. 7
 060614-7C
 2nd

	A	B	C	D	E	F	G	H	I	J	K	L	
76													
77	Calls from 2005/08/17 to 2005/08/23												
78	Sensitivity Setting:		30% or lower										
79	All Calls		13,492										
80	130 Calls Only		852										
81	3-Way Call Percentage		6.31%										
82													
83	Calls from 2005/10/07 to 2005/10/14												
84	Sensitivity Setting:		30% or lower										
85	All Calls		17,983										
86	130 Calls Only		2,452										
87	3-Way Call Percentage		13.64%										34.23%
88													
89	Calls from 2005/10/17 to 2005/10/23												
90	Sensitivity Setting:		30% or lower										
91	All Calls		14,862										
92	130 Calls Only		2,064										
93	3-Way Call Percentage		13.89%										