

COPY

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
TALLAHASSEE, FLORIDA

DOCKET NO. 920260-TL - Comprehensive review of the revenue requirements and rate stabilization plan of Southern Bell Telephone and Telegraph Company.
DOCKET NO. 900960-TL - Show cause proceeding against Southern Bell Telephone and Telegraph Company for misbilling customers.
DOCKET NO. 910163-TL - Petition on behalf of Citizens of the State of Florida to initiate investigation into integrity of Southern Bell Telephone and Telegraph Company's repair service activities and reports.
DOCKET NO. 910727-TL - Investigation into Southern Bell Telephone and Telegraph Company's compliance with Rule 25-4.110(2), F.A.C., Rebates.
DOCKET NO. 911034-TL - Request by Broward Board of County Commissioners for extended area service between Fort Lauderdale, Hollywood, North Dade and Miami.

and

DOCKET NO. 930693-TL - Request for approval of proposed tariff to introduce Lifeline Assistance Plan by BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company. (T-93-370 filed 6/28/93) (Deferred from the 12/7/93 Commission Conference

BEFORE:	CHAIRMAN J. TERRY DEASON COMMISSIONER SUSAN F. CLARK COMMISSIONER LUIS J. LAUREDO COMMISSIONER JULIA L. JOHNSON COMMISSIONER DIANE K. KIESLING
PROCEEDING:	AGENDA CONFERENCE
ITEM NUMBER:	9**PAA and 10**
DATE:	January 18, 1994
PLACE:	106 Fletcher Building Tallahassee, Florida
REPORTED BY:	JANE FAUROT Notary Public in and for the State of Florida at Large

DOCUMENT NUMBER - DATE
00842 JAN 25 1994

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P R O C E E D I N G S

1
2 CHAIRMAN DEASON: Item Number 9. Before we begin
3 Item 9, let me make an announcement. It's the
4 intention of the chair to break for lunch at twelve,
5 and to take an hours lunch. And maybe we can conclude
6 Item 9 by twelve, if not we will just have to come back
7 after lunch and resume Item 9. Very well, Item 9.

8 MR. HATCH: Commissioners, Item 9 concerns a
9 proposed settlement to the Southern Bell cases that has
10 been presented to the Commission by the parties,
11 principally Public Counsel and Southern Bell, with a
12 subsequent implementation agreement essentially signed
13 by the remainder of the parties. We can proceed at
14 your leisure. If you have questions, or however you
15 choose to proceed.

16 CHAIRMAN DEASON: Do the parties wish to kind of
17 make an opening statement, or do you want to just have
18 the Commissioners ask questions?

19 MR. SHREVE: Commissioner, I think we would like
20 to make some brief comments. You do have quite a few
21 parties represented here, and I think the parties would
22 also like to have the Commissioners ask any questions
23 that they want to, because we have not had an
24 opportunity to brief you or discuss with you the things
25 that are in the stipulation, and then also the second

1 agreement. I would assume that probably all of you
2 have already gone over all the numbers. I did want to
3 point out that I think the numbers that have been
4 reported in the press are correct. It was gone over in
5 detail at the press conference. The way that falls out
6 primarily is there is about \$112 million that is
7 absorbed of storm damage and refinancing costs. A
8 \$55 million elimination of Touch-Tone, a \$60 million
9 reduction in July of '94. There is a service guarantee
10 which is an estimated \$3 to \$10 million, which is along
11 the lines of what GENTEL has that you are already
12 familiar with. There is an \$80 million reduction in
13 October of '95, an \$84 million reduction in October of
14 '96. The Dade/Broward restructuring, which you have
15 already voted out and is getting ready to go to a
16 hearing has set aside \$11 million. And a hurricane
17 damage casualty reserve of \$10 million. That is the
18 result of this case and this stipulation. The
19 approximately \$49 million which has been discussed as
20 the result of the last case, which has the -- the
21 permanent rate reduction has not been implemented until
22 now. That will now be implemented, and some of the
23 money is earmarked in this agreement for different
24 things, out of that \$49 million.

25 You're probably all familiar with the sharing

1 points and the caps, which is very important to us as
2 far as protecting the customers in the pot with the
3 possibility of an overearnings. The sharing begins at
4 12 percent in 1994 with a 60 percent return to the
5 customers with 40 percent being held by Bell, with the
6 cap at 14 percent with everything above 14 being
7 refunded. The sharing point for '95 is 12.5 percent,
8 60 percent to the customers, 40 percent to the Company,
9 with the cap at 14.5 percent. Then if the sharing
10 point is to be changed in '96, it's based on the
11 economy and the interest rates. The maximum
12 fluctuation there would be 75 percent of 1 percent up
13 or down. That recommendation came -- not that specific
14 recommendation, but out of the statewide grand jury
15 they discussed, they felt there should be some
16 consideration on the economic situation in the country,
17 and have that reflected in the return on equity.

18 We feel that we have tailored an agreement here
19 that possibly could not be ordered by the Commission,
20 with some things that we have never had in the past.
21 We have never had a future rate decrease, the
22 Commission has never ordered a step decrease. That we
23 have here. We have the refunds that I have already
24 been over, and the structuring of the incentive plan,
25 if you will. We have service protections that are put

1 in here that have not been there before. The
2 additional personnel that's going to be put on by
3 Southern Bell. We have the service guarantee with
4 refunds to the people if Southern Bell does not meet
5 commitments to the public they have made.

6 We feel that overall it is an excellent settlement
7 for the people of the State of Florida. I will speak
8 for myself, but I think everyone else feels the same
9 way I do. Your decision, of course, and I know you
10 feel this way, but I want to make sure everyone else
11 knows this, too, will be not made based on the fact
12 that I have signed an agreement, but on the fact that
13 it is in the best interest, clearly in the best
14 interest of the people of the State of Florida.

15 There have been a lot of numbers that have come
16 around, and at one point I had intended to get into a
17 long discussion about that. I will not. I will hold
18 that if it's needed. If not needed, I won't do it at
19 all. But the amount of reductions is something that
20 was worked very hard to gain, and that's where we feel
21 we are now. We think we have an excellent agreement,
22 and I think the other parties in the case, I think just
23 about every party is willing to either make a statement
24 or be spoken for. Beyond that, I think Mr. Lacher
25 might have some comments.

1 MR. LACHER: Commissioners, my name is Joe Lacher,
2 and I'm the President of Southern Bell Florida. I
3 don't know if I have to give my address for the record.
4 I would like to take a few moments to kind of describe
5 the process that the Office of Public Counsel and
6 Southern Bell have used in negotiating this settlement.
7 For I believe understanding the process is fairly
8 crucial to understanding how we were able to fashion
9 this agreement. As long as I have been in Florida, I
10 have heard this Commission urge the parties to try to
11 get together and work things out among themselves to
12 see if they can reach a common understanding that
13 served both parties' interests. And, in fact, since
14 the very early days of this case, Public Counsel and I
15 have expressed the hope that perhaps there was some way
16 we could get together and negotiate a settlement.

17 To be quite honest with you, the size and
18 complexity of this case seemed a bit baffling to us at
19 first. In the May/June time frame, we began to focus
20 in on whether we really needed to try to reach a
21 settlement. And we reached the conclusions in early
22 September that we owed it to our respective
23 constituencies to put forward an effort. At that point
24 in time, the Commission Staff and our respective staffs
25 had put in, oh, about a year and a half, I guess,

1 working on the various issues in this case. And so
2 quite logically, the approach we used in the early
3 sessions was to begin going over individual issues and
4 trying to explain to either party our respective side
5 on individual issues. In fact, I recall one very long
6 day when we each brought in our accounting experts and
7 spent the day listening to their respective positions
8 on various allowances, disallowances, interpretation of
9 financial accounting standard board rules, and a number
10 of other technical accounting issues. And the thing
11 that jumped out at us, the thing that became very
12 clear, was that all of these issues in this case were
13 ones where reasonable people could look at the same set
14 of facts and reach different conclusions. And that if
15 we, in fact, were going to settle this case, we needed
16 to shift gears.

17 And at that point, in kind of a perverse sort of
18 way, the complexity of this case helped to drive us
19 toward a settlement, because it forced us to look at
20 the forest and not the trees. To look at what were the
21 outcomes that were expected by the ratepayers of the
22 state, by the various intervenors in the case, and, of
23 course, by the company. What were the outcomes, the
24 goals, the expectations that people were seeking in
25 this? And if you approach it that way, the relative

1 merits of anyone's particular witness on any given
2 issue becomes less important in that it's only a
3 contributing factor toward the outcomes. And so we
4 reread the testimony and the depositions with a
5 different perspective. Quite frankly, I listened with
6 a different angle at the public hearings at the public
7 witnesses. We gathered information from our contacts
8 with customer groups, from talking to the various
9 staffs on the various issues in the matter to try to
10 come to grips with what were the issues that were
11 important, what were the important outcomes in this
12 case.

13 And ultimately it crystallized into seven broad
14 areas that were the keys to settling this case. The
15 seven areas of outcomes that were important to people
16 involved in the case. And those seven items were,
17 first, all parties wanted rate stability and
18 predictability. Now, as contentious and complicated as
19 this case was, it really was only dealing with calendar
20 years '93 and '94. And irrespective of the outcomes,
21 we could anticipate that either the Office of Public
22 Counsel, or Southern Bell, or both, would then
23 immediately begin filing a case to address the '95
24 issues. And again in '96. And this continued
25 uncertainty was in no one's best interest. If we could

1 structure an agreement that produced rate stability and
2 predictability for everyone throughout that entire
3 period, everyone was clearly better off.

4 The second issue, from my perspective, was there
5 was a clear fear among a large number of our
6 residential customers that Southern Bell had a plan to
7 implement mandatory statewide local measured service.
8 And that issue needed to be addressed and put to bed
9 once and for all.

10 Third, there was a desire by the parties to reduce
11 or eliminate the Touch-Tone charge.

12 And, fourth, this Commission had directed that the
13 revenue requirements for the Dade/Broward EAS issue be
14 addressed in this case. And while we know that some of
15 the parties had some differences of opinion about the
16 structure and the nature of the settlement of that EAS
17 issue, all parties were in agreement that it needed to
18 be settled as part of this case. And while we
19 recognized that there are a number of other EAS issues
20 that are working their way through the process in the
21 state, none are quite yet ripe for decision, and they
22 will have to be addressed in subsequent periods as they
23 continue their way through the process.

24 Fifth, all of the parties were seeking sizable
25 rate reductions to reflect the changing economic

1 conditions. And while the various intervenors focused
2 on tariffs of particular interest to their particular
3 representatives, the Office of Public Counsel's
4 approach was to look at a broader perspective as to
5 whether there were sufficient rate reductions to
6 address the needs of all of the various parties within
7 a framework that would be fair to the company. And so
8 it was important that we reach an agreement on rate
9 reductions that were adequate and reflected the
10 changing economic conditions.

11 Sixth, there was a desire for various protections,
12 and I have clumped a group of things together here,
13 really, as I think about this. There was desire for
14 protections on service from some parties, and that's
15 reflected in the proposed service guarantee tariff.
16 And there was a desire for protection against possible
17 recurrences of the various unfortunate incidents that
18 led to the two investigation dockets. And while I'm
19 confident they won't reoccur, there was a concern that
20 we put in some protections in the agreement to address
21 those issues. There was a desire for protection to
22 assure that in the event that we reached the sharing
23 point, that in fact it would be reflected in refunds
24 that would appear on customers bills. There was a
25 desire for protections, indeed, in the very design of

1 the sharing points and the cap to protect all parties
2 either against unanticipated economic swings or
3 unexpected shifts in revenues, so that the sharing plan
4 had to be designed to account for those possible
5 changes.

6 And, finally, there was an acceptance that in this
7 dramatically changing telecommunications marketplace
8 that a sharing plan that had reasonable protections for
9 the appropriate parties is a reasonable and fair
10 transition step that will benefit both the customer and
11 the company.

12 Having reached a consensus on the kind of outcomes
13 that we needed to measure our plan against, we really
14 needed a yardstick, a standard whereby we could measure
15 whether the proposed solutions met those objectives or
16 not. How could we tell whether the results were
17 reasonable? And quite frankly we came up with really
18 two alternatives. We could slip back into the morass
19 of debating which of our respective accounting
20 witnesses was right on various accounting issues, or we
21 could hold constant the current process, and thereby
22 each one of us apply our judgment on the potential
23 outcome to those decisions in valuing the proposed
24 solutions. We needed a constant mark upon which we
25 could make a comparison. And ultimately we reached

1 that decision.

2 What was left for us at that point, then, was to
3 begin testing various solutions. Using that standard,
4 and using the expected outcomes, we spent a good bit of
5 time debating possible protections, and the wording of
6 those protections, and how they could be structured to
7 address the various concerns. And then as to the rate
8 reductions and the sharing plan, we had a variety of
9 variables. The size and the amount of the rate
10 reductions, and the timing, the sharing point, the
11 sharing formula, whether it's 60 percent to the
12 customer and 40 percent to the company, or 50/50, or
13 some other plan, whether there was a floor or a cap,
14 and how the plans might adjust for changing economic
15 conditions. And, quite frankly, we spent, I don't
16 know, I would guess several hundred hours, at least,
17 exploring different combinations and permutations. We
18 tried one-tier, two-tier, three-tier, no-tier sharing
19 plans. We tried different arrangements, different
20 splits, different rate reductions, and different timing
21 to try to come up with something that met these goals.

22 Ultimately, the settlement we reached has
23 approximately \$300 million in rate reductions,
24 staggered over the period, it has a 60/40 sharing
25 formula, with a sliding sharing point to recognize the

1 potential for changing economic conditions. It has
2 guarantees on local rates that they will not increase,
3 and that there will not be local measured service, and
4 has the various other service protection items that Mr.
5 Shreve has already mentioned. It was complex and a
6 challenge for each of us, but it was a carefully
7 crafted solution that we believe addresses the desired
8 outcomes of all the parties. The proof, though, really
9 is in the pudding. And the fact that when Public
10 Counsel and Southern Bell reached the agreement and
11 began sharing the information with the various parties,
12 it's my understanding that the plan now has been
13 endorsed by the Attorney General, the American
14 Association of Retired People, the Florida Consumer
15 Action Network, and, in fact, I believe each of the
16 parties in the case, as well as by various newspapers
17 and editorial boards around the state. I have to point
18 out that this settlement would not have been possible
19 six or seven months ago. It was the extensive work of
20 all the various staffs that helped focus the issues so
21 that we could begin to understand what were the
22 expected outcomes that made it possible.

23 And I would like to thank the staffs of the
24 Commission, of the Office of Public Counsel, and the
25 various intervenors for the fact that their information

1 and the process contributed to creating an environment
2 where we, in fact, could negotiate a settlement. I
3 believe it's a reasonable settlement for the company,
4 and I clearly believe it's in the best interest of the
5 ratepayer. And we look forward to your support as well
6 today. Thank you.

7 Mr. Shreve.

8 CHAIRMAN DEASON: Mr. Shreve.

9 MR. SHREVE: Mr. Metcalf. One thing I would like
10 to make clear out of my comments, while Mr. Metcalf is
11 coming up. Local measured service is eliminated,
12 Lifeline is provided for, there is a cap on local rates
13 during the term of the settlement, and that the sharing
14 points very clearly provide for refunds rather than
15 sharing as was done in the last case, we made very
16 specific requirements of that so that we know we have a
17 refund rather than anything else happening to the
18 money. Mr. Metcalf.

19 MR. METCALF: Commissioners, my name is
20 Doug Metcalf, and I'm here on behalf of the Florida Ad
21 Hoc Telecommunications Users Committee, which is the
22 large business users of the state; the banks, the
23 retailers, the manufacturers, and, in fact, the State
24 of Florida is a member of Ad Hoc, which the state is
25 the largest user of telecommunications services in the

1 state. I'm also appearing today on behalf of DOD, who
2 did not come, but who has concurred in everything that
3 went on.

4 I am here to kind of bridge the gap between the
5 stipulation which was in a document between Office of
6 Public Counsel and Southern Bell and the parties. The
7 implementation agreement, which was something signed by
8 all of the other parties who also concurred in the
9 agreement. The reason that I'm speaking is because
10 Mr. Shreve has very ably represented the consumers
11 here, and I represent the business users making up both
12 half of the user quorum. The other reason is because I
13 didn't attend the meeting yesterday where they
14 discussed all of that, and I wound up as the guy who
15 got to bridge the gap. So here I am. Always attend
16 your meetings.

17 The reason that there is an implementation
18 agreement, and ultimately the stipulation itself, to
19 which we have all agreed, is because of the prehearing
20 conference wherein Commissioner Clark last week
21 suggested, as Mr. Lacher said, that we all get together
22 and see if there is some common interests, and if there
23 was some way for us to come together on the agreement.
24 Every party attended the meeting, and over a three-day
25 period we did come together. We had the opportunity in

1 a non-hostile forum, and in more of a workshop forum
2 than the hearing process, to express the concerns that
3 each of us had on behalf of our various interests, but
4 also to hear what the other folks were saying and see
5 if there was some middle ground. The middle ground
6 obviously being available, because of the \$300-plus
7 million that Mr. Shreve and the Office of Public
8 Counsel and Southern Bell agreed to.

9 I think every party, and we all expressed it at
10 one time or another, wants to extend their
11 congratulations and appreciation to both of them for
12 what they have done, because this is a huge sum of
13 money. More than probably would have come up as a part
14 of the agreement. It isn't just that the money is
15 there, though, that takes care of a few problems we
16 have. It is that we were able to resolve some of the
17 more contentious issues, and by that get all the
18 parties together to see if the rest of the items could
19 be taken care of.

20 The business users, speaking for them, the
21 business users are customers who buy Southern Bell's
22 most sophisticated highest technology and highest
23 profit products. The services that they buy are all
24 above cost, they provide significant amounts of
25 contribution, and they are, in effect, the subsidy that

1 allows universal service to continue.

2 Our issue, the issue of the business users in the
3 case, was an attempt to try and restructure the
4 business services to equalize the contribution of all
5 of our business services to make Southern Bell's
6 services more competitive with each other. One of the
7 problems that Southern Bell expressed in their
8 testimony, and that they have testified to several
9 times, is the fact that they are losing -- that there
10 is a more competitive market out there, and they are
11 losing the business users because we have technology
12 alternatives that don't require us any longer to use
13 the LECs. We agree with that. And we understand that
14 our contribution is important to keeping the rest of
15 the state and the rest of the telephone network
16 solvent, and we want to stay on the network. But it
17 was necessary, and that was the basis of the testimony
18 I put forward, to do that it was necessary for us to
19 request that contribution be equalized, that our
20 services be changed, and that things be done to set the
21 telephone company up for the future so that the
22 business users had an incentive to stay on that
23 network.

24 To their credit, Southern Bell proposed many of
25 the things that we have agreed to in the final

1 implementation agreement. They had suggested change to
2 the PBX rates, and to the NARs rates, which is the
3 network access register. It's a little software gate.
4 And these things were suggested by the company. They
5 wanted to lower them by \$29 million, which is the
6 amount that everyone had agreed to. This takes one
7 element that was priced with about a 4,000 percent
8 contribution and takes it down to about a 3,000 percent
9 contribution. We are not suggesting in this case, or
10 in this settlement that everything has achieved the
11 right level, has gotten down as far as it could. And
12 we suggest that over the next two years as additional
13 monies are available to you to make changes, the
14 business users and other parties who will speak later
15 on will still come forward and suggest changes that
16 would make tariffs more equitable.

17 Items which had not been addressed by Southern
18 Bell prior to our discussions last week were DID, a
19 \$4 million change has been made there. A \$55 million
20 change has been made in the Touch-Tone element,
21 13 million of that applies to business, the other, the
22 remainder is residential. A very significant change
23 has been made in the service connection charges, most
24 of that, again, will impact residential users, but
25 businesses benefit from it. Some changes have been

1 made to the pay telephone tariffs, which will be
2 discussed, I'm sure, by the pay telephone people as
3 they sign onto the agreement. Very significantly,
4 money has been left over the three-year pay out to the
5 Commission to do with as they see fit, because there
6 are obviously interests that you have, user interests
7 and competition interests that you have, and money has
8 been provided in each of the three years for the
9 Commission to make some changes as they deem fit.
10 Several of the users, as part of the agreement, signed
11 onto the fact that they would not even participate in
12 the distribution of those future funds. So I think
13 that is a significant part of the agreement.

14 Access charges will be cut. The biggest
15 beneficiary of that is the residential users. Large
16 users benefit, but for the most part we have adopted,
17 we have set up private line networks and special access
18 networks between our facilities and the POPs, the
19 interexchange POPs, so we don't pay the originating
20 charges, and in some cases the terminating charges
21 anyway. So that is not as big a benefit for us, but it
22 was a very, very important element in benefiting all
23 the consumers of Florida.

24 CHAIRMAN DEASON: Mr. Metcalf, how much more do
25 you have?

1 MR. METCALF: Three paragraphs, sir.

2 CHAIRMAN DEASON: Okay.

3 MR. METCALF: The changes made in this case will
4 encourage the business users to remain on the network.
5 And we believe on behalf of all the parties that the
6 stipulation and the implementation agreement are
7 important.

8 I want to say on a personal basis that I have been
9 involved in 38 states and 150 of these cases, and I
10 have yet to see 13 parties come forward and suggest an
11 agreement to a rate case as large as this one. I think
12 that's a credit to the Office of Public Counsel and
13 Southern Bell, again, and the Staff for correctly
14 addressing the goods and bads of the agreement in their
15 recommendation, but on balance, favoring the
16 implementation of the agreement.

17 Ad Hoc urges you to approve the agreement. And as
18 an additional support for this, we have one large user,
19 the State of Florida, Mr. Winston Pierce, who is in
20 charge of telecommunications for the state is going to
21 make about a one-minute statement, if he can, in
22 support of the agreement on behalf of specific users.
23 Thank you.

24 CHAIRMAN DEASON: We will hear from Mr. Pierce at
25 one o'clock, and any other of the parties that wish to

1 make comments at that time we will hear from them. We
2 are going to take lunch and reconvene at one.

3 (Lunch recess.)

4 CHAIRMAN DEASON: We will go ahead and resume with
5 Item 9. Mr. Pierce.

6 MR. PIERCE: Commissioners, my name is Winston
7 Pierce, I'm with the Department of Management Services,
8 Division of Communications. I'm here as a member of
9 the Ad Hoc Telecommunications Users Committee, and also
10 representing all of the Suncom networks users, which
11 include in addition to state agencies, universities,
12 community colleges, counties, cities, school boards,
13 all government throughout Florida, not necessarily all
14 participate, but all levels of government are eligible
15 users. The stipulation and implementation agreement
16 that's before you today does reduce the rates to the
17 Suncom users. It is a significant step in the right
18 direction rather than an end in itself. We believe in
19 it. We have been talking to this Commission over the
20 years about moving to cost-based pricing, and we see
21 that -- I know Mr. Lacher talked about stability in
22 rates, we see that cost-based pricing is the way to
23 achieve stability in rates. Some of the things that
24 are included in here that Mr. Metcalf mentioned earlier
25 with the redesign or realignment of the business rates,

1 and the PBX, and NARs, and Hunting (phonetic), and some
2 of those items, reduction of switched access charges,
3 the reduction in the direct inward dialing, or DID
4 services, and the reduction in the connection charges,
5 all tend to go toward cost, even though I don't believe
6 these rates that are being presented are cost-based,
7 they are going toward cost, which we support. And we
8 encourage all of the parties, the Commission, the
9 Public Counsel, Southern Bell, to continue in this way
10 because we see this is the way to keep the large users
11 from abandoning the network.

12 Some of the things that we see is the fluctuations
13 in pricing cause us to make the wrong decisions or the
14 decision based on the wrong reasons. And I know that
15 we have had a number of the Ad Hoc users that have made
16 decisions to obtain services elsewhere, and I think
17 most of that if we had the cost-based pricing, we would
18 be able to make those decisions and the decision would
19 not be a bad decision two or three years later. And
20 that's my concern in the major part of this.

21 Now, there is one area that is not addressed in
22 this that we have been talking about for a number of
23 years, and that is the cost of the last mile. Now, we
24 expect to be back over the next three years, primarily
25 the second and third year, to talk about that and try

1 to achieve some reductions in both special access and
2 private line services, which are a major part of the
3 Suncom network. We don't have a dollar amount that is
4 the savings for the Suncom network at this time, but we
5 think it will be significant. And one of the things
6 that I wanted to emphasize is that this savings will
7 flow on through to the governmental agencies at all
8 levels, which in effect provides a savings to the
9 taxpayers of Florida. Thank you for your time.

10 CHAIRMAN DEASON: Thank you, sir. Do other
11 persons wish to make statements?

12 MR. SHREVE: While Mr. Belote is coming forward, I
13 wanted to mention something that I think probably has
14 been referred to, I'm sure you know these numbers
15 already, but reserved for the Commission to use in the
16 way that they feel should be used to solve problems for
17 the people in the State of Florida is \$10 million in
18 '94, and we felt that was enough, because there is a
19 time element there as to how much you're going to be
20 able to get to in '94, 25 million in '95, and 48
21 million in '96. So you have a total of approximately
22 \$83 million that is reserved in a pool to be used for
23 whatever needs the Commission feels need to be met.
24 Thank you.

25 CHAIRMAN DEASON: Mr. Belote.

1 MR. BELOTE: Thank you, Chairman Deason,
2 Commissioners. My name is Monte Belote, I'm the
3 Executive Director of the Florida Consumer Action
4 Network. I'm here today on behalf of our more than
5 40,000 members, to urge you to approve the proposed
6 settlement, and to endorse the implementation
7 agreement. We are poised today on the edge of probably
8 the greatest victory for Florida consumers in a utility
9 rate case that we have seen in our lifetimes. You know
10 that we worked hard to bring to you the voices of
11 consumers, and get those voices at the table. You saw
12 and heard them at the more than 15 service hearings
13 throughout the state in this rate case. We represent
14 to you that this settlement accomplishes virtually
15 everything that consumers have asked for. It kills the
16 local measured service proposal that we believe would
17 have opened the Pandora's box leading to a payphone in
18 every living room. Very importantly, it lowers base
19 rates for more than 93 percent of all Southern Bell
20 customers, who know, as we do, that this basic
21 Touch-Tone telephone is part of basic telephone
22 service. Not an optional luxury item for which
23 customers should continue to be billed a dollar per
24 month per line.

25 Finally, this settlement will allow us to put the

1 cash cow of Touch-Tone charges permanently out to
2 pasture with your help. It helps assure greater access
3 to phone service for seniors and low income folks
4 through the establishment of Lifeline rates. It offers
5 dramatic rate reductions not just this year, but in
6 future years as well, setting both the precedent and
7 validating what we have been saying all along, that
8 telephone service is indeed a declining cost industry.
9 It permanently reduces rates by \$49 million a year, to
10 memorialize a reduction for accumulated overcharges
11 that dates back to the last Southern Bell rate case,
12 with a balanced package of cuts that are beneficial to
13 business users as you heard previously. Although Bell
14 gets to keep its incentive rate plan, it's a
15 dramatically overhauled incentive rate plan. It's
16 rebuilt from a foundation with a rate of return of 10.8
17 percent for fiscal year 1993, and it lowers the sharing
18 points to a level where if the company improves, as we
19 believe it should and will, customers should share in
20 that improved performance for the first time in history
21 of incentive regulation in Florida. It sets aside
22 substantial sums to address the needs of customers not
23 specifically addressed so far, including the
24 Dade/Broward ECS plan, which we have talked about,
25 expanded local calling areas for areas such as Palm

1 Beach County, where you have heard from thousands of
2 customers about the need to change the system to match
3 real world local calling patterns, as well as other
4 needs. It lowers long distance rates and takes a major
5 step towards answering that age old question about why
6 it costs more to call from Fort Lauderdale to Stuart
7 than from Fort Lauderdale to San Francisco. And it
8 equalizes payphone charges, which we believe will lead
9 to greater access to pay telephones in innercity and
10 other economically depressed areas.

11 Does it penalize Southern Bell for its past
12 misdeeds? Well, I wouldn't call nearly a billion
13 dollars in accumulated rate cuts a reward. More
14 importantly, though, this proposed settlement focuses
15 all of us on the task ahead, especially Southern Bell,
16 to improving service to our customers, not focusing on
17 mind numbing mounds of paper. I don't know about you
18 all, but I have two stacks in my office that stand as
19 tall as I do just for this rate case alone. Many of
20 Bell's employees are FCAN allies and affiliate members,
21 and they, too, are anxious to move forward into the
22 future of providing better quality, accessible, and
23 affordable telephone service. And the service
24 guarantees, coupled with the requirement to add front
25 line service personnel, should ensure against future

1 problems.

2 On behalf of all of our members, I conclude by
3 again urging you to adopt the proposed settlement and
4 its implementation agreement. Thank you very much.

5 CHAIRMAN DEASON: Thank you. Other persons.

6 MR. SHREVE: Don.

7 MR. BELL: Donald Bell on behalf of the American
8 Association of Retired Persons. Those were wonderful
9 comments. I want to adopt FCAN's positions as my own.
10 And I will make my other comments very brief.

11 I want to, first of all, thank Mr. Shreve, Mr.
12 Beck, and the folks from Southern Bell for their hard
13 work in coordinating the settlement agreement. I want
14 to express my thanks and gratitude to the Commission
15 Staff for their hard work in producing a very
16 comprehensive analysis of the agreement in a very short
17 period of time, and I hope that that will give the
18 Commission an opportunity to vote this thing out today.

19 I want to clarify for the record that AARP is in
20 complete support of the agreement. AARP filed a motion
21 supporting approval of the agreement on January 5th.
22 Since that time, Mr. Shreve has coordinated discussions
23 between Southern Bell and the other parties for the
24 purpose of implementing the settlement agreement, and
25 AARP supports the positions that have resulted from

1 those discussions. Like FCAN, we are particularly
2 pleased with the consumer benefits, the inclusion of a
3 Lifeline program, the elimination of Touch-Tone
4 charges, toll relief in the Broward/Dade corridor, and
5 many other consumer benefits that we see in this
6 agreement.

7 I want to encourage the Commission to adopt the
8 agreement. AARP believes it is in the best interest of
9 Florida consumers, and in the best interest of AARP's
10 particular constituents. Approving the agreement will
11 result in a tremendous savings of time, energy, and
12 cost that would result from going forward with the
13 hearings, which we believe are unnecessary. And AARP
14 does not believe that hearings could achieve any better
15 result than has been achieved through this settlement
16 agreement. Thank you.

17 MR. GROSS: Good afternoon, Chairman Deason and
18 members of the Commission. I'm Michael Gross, I'm here
19 on behalf of the Attorney General's Office. The
20 Attorney General endorses the settlement, and commends
21 Public Counsel for achieving a result which provides
22 substantial benefits to the ratepayers. The Attorney
23 General considers that the implementation agreement
24 provides adequate reserves for future rate design to be
25 determined by the Commission. Additionally, matters of

1 concern to the Attorney General's Office of statewide
2 prosecution have been appropriately addressed.

3 Moreover, the Attorney General joins with AARP in
4 supporting the Lifeline proposal. So we urge the
5 Commission to approve the settlement proposal and the
6 implementation agreement. Thank you.

7 MR. TYE: Commissioners, I'm Mike Tye appearing on
8 behalf of AT&T Communications of the Southern States,
9 Inc. I spent a year last week negotiating with
10 Mr. Shreve and Southern Bell with respect to the
11 implementation agreement here, and I'm pleased to say
12 today that AT&T appreciates the opportunity to address
13 the Commission in support of the stipulation and
14 agreement entered into by Public Counsel and Southern
15 Bell as implemented by the implementation agreement
16 which has been agreed to by all the other parties in
17 this case.

18 First, let me say that we believe that Public
19 Counsel and Southern Bell should be commended for the
20 fair, just, and reasonable settlement which they have
21 negotiated with respect to the financial issues here.
22 In our opinion, the revenue reductions set forth in the
23 settlement agreement are extremely beneficial to the
24 citizens of the state, as is the fact that this result
25 was accomplished without the necessity of taking the

1 time, expense, and uncertainty of the hearing process.

2 Now, the implementation agreement, as Mr. Metcalf
3 related to you earlier, essentially picks up where the
4 stipulation and agreement leaves off, and further
5 insures that the citizens will receive the full benefit
6 of the settlement by designating certain revenues
7 targeted for reductions for specific purposes and
8 setting aside other revenues for the Commission to use
9 to address future concerns that may arise.

10 From AT&T's standpoint, the overriding concern in
11 this case has always been the level of Southern Bell's
12 intrastate switched access charge rates. Switched
13 access charges have historically been one of the most
14 profitable of all LEC services and one of the highest
15 priced. In fact, Southern Bell's cost of providing
16 switched access services is less than one cent per
17 minute, but under today's pricing schedules
18 interexchange customers pay more than 11 cents per
19 minute in originating and terminating switched access
20 charges on an intrastate long distance call in Florida.

21 Now, as a result of this situation, AT&T has taken
22 the position in this case that intrastate switched
23 access charge rates should be reduced towards cost and
24 at least to interstate levels in this proceeding. The
25 package before you here today serves to alleviate the

1 problem of excessive switched access charge rates by
2 moving to parity with today's interstate price over a
3 period of three years. Essentially, under this
4 agreement, as it's implemented by the implementation
5 agreement, intrastate switched access charge rates will
6 be reduced by 50 million per year on July 1, 1994.
7 They will be reduced by an additional \$55 million per
8 year on October 1, 1995. And then on October 1, 1996,
9 intrastate switched access rates will be brought into
10 parity with today's interstate switched access rates.
11 Now, as your Staff indicates in this recommendation,
12 this is an appropriate goal, and it should be approved.

13 Approval of the package before you will benefit
14 the public in several ways. First, as you found in the
15 AT&T forbearance case, and in other dockets before you,
16 the competitive interexchange market will ensure that
17 the cost reductions generated by these switched access
18 reductions are passed on to long distance customers in
19 the form of lower toll rates. And in the negotiations
20 that we went through last week, Mr. Shreve and Southern
21 Bell both asked AT&T what we would do with the access
22 charge reductions, and we committed to them that we
23 will use these cost savings to provide lower rates to
24 our customers. We will do that in accordance with the
25 market demands, and we will file the appropriate

1 tariffs with this Commission to do so.

2 An additional benefit is that this long needed
3 reduction in intrastate switched access charges will be
4 accomplished in the context of a negotiated settlement
5 which protects the interests of all of Southern Bell's
6 customers and all the other parties to this case.
7 Specifically, the goal of getting switched access
8 charges down closer to where they ought to be is going
9 to be accomplished in the context of a settlement which
10 not only does not raise the cost of local service, but,
11 in fact, through the elimination of Touch-Tone charges
12 and the Lifeline service that is part of the agreement,
13 actually reduces the cost of local service for the vast
14 majority of Southern Bell's subscribers. You don't get
15 many opportunities to do what we are doing here with
16 access charges in the context of an agreement that also
17 lowers local rates.

18 A third benefit is the settlement that has been
19 negotiated leaves large amounts of revenue available
20 for unspecified reductions to be made at the discretion
21 of the Commission in 1994, 1995 and 1996. Essentially,
22 all interested persons went under this scenario.

23 From AT&T's standpoint, I can say that we are
24 pleased to have been part of this process. We know
25 that our customers will benefit. We once again commend

1 Mr. Shreve and Southern Bell for putting this process
2 in motion, and we believe that the package before you
3 is in the public interest and urge you to approve it.
4 Thank you.

5 CHAIRMAN DEASON: Mr. Tye, I think there may be a
6 question.

7 COMMISSIONER LAUREDO: I didn't know where this
8 was going, so I might as well ask you. Is it the
9 intent of your company that the reduced access charges
10 will be passed through to the customers?

11 MR. TYE: Yes, sir. We will use them, and our
12 intent is to do that in accordance with the demands of
13 the market. We will use these funds to reduce rates,
14 whether it be in the form of discount service packages
15 or otherwise, but the funds will be used that way.

16 MR. SHREVE: Commissioner, if I may reply to that.
17 Even during the settlement negotiations before we had
18 reached a final agreement between Southern Bell and I,
19 I stayed in touch with AT&T, as well as the other
20 parties, and AT&T long ago committed to pass these
21 savings on to the customers of the State of Florida.

22 MS. KAUFMAN: Commissioners, I'm Vicki Gordon
23 Kaufman, I'm here on behalf of the Florida
24 Interexchange Carriers Association. We also
25 participated last week in the discussions that you have

1 heard so much about, and we support the stipulation and
2 the implementation agreement that's before you today
3 for your approval. I did want to just make one point
4 clear, as to the \$11 million that is posted to be set
5 aside for the Dade/Broward docket, that will be
6 disposed of after we go to hearing in the Dade/Broward
7 docket, and we look forward to discussing with you the
8 kind of toll plan that we think might be appropriate on
9 those routes. Thank you.

10 COMMISSIONER LAUREDO: The same question I asked
11 AT&T, are your members also committed to passing on --

12 MS. KAUFMAN: Commissioner Lauredo, I do not have
13 the authority to make that representation today. But I
14 think I can say that competition in the market will
15 make that a very likely result.

16 MR. SHREVE: Commissioner, as to the \$11 million
17 in the Dade/Broward, that decision, of course, is open,
18 Ms. Kaufman says. If for some reason the Commission
19 does not use the \$11 million in that situation, it will
20 flow back into the pool and be available for you to use
21 in other places. In other words, that 11 million does
22 not disappear.

23 MR. BOYD: Commissioners, I'm Everett Boyd of the
24 Ervin, Varn law firm here in Tallahassee, appearing on
25 behalf of Sprint. We, too, join in urging your

1 adoption and approval of the settlement agreement and
2 the implementation agreement. I think that the vast
3 numbers of issues and the divergence of parties that
4 made this case so complicated show how amazing this
5 settlement is, and also how reasonable it is because of
6 the wide position of all the parties. So we
7 respectfully request that you consider it, and that you
8 approve both of the agreements. Thank you.

9 COMMISSIONER LAUREDO: Mr. Boyd, is Sprint Long
10 Distance committed to passing on the reduction in
11 access charges to the consumers of Florida?

12 MR. BOYD: Commissioner, I haven't discussed that
13 specifically with my client, but I think you can be
14 assured that this is one of the most competitive areas
15 in Florida, indeed the whole country, and the market
16 will drive that I'm sure.

17 MR. SHREVE: Commissioner, if I may, that's a
18 question that has come to me several times. And in
19 some of our discussions we even had a problem making
20 sure we didn't violate any antitrust laws. It is my
21 view, in representing the people of the State of
22 Florida, that competition -- after AT&T has committed
23 to flow those savings through, that competition will
24 necessarily take care of the rest of that.

25 MR. MELSON: Commissioners, Rick Melson

1 representing MCI Telecommunications Corporation. I'm
2 coming late in the game, this is a hard act to follow.
3 We also commend Mr. Shreve and Southern Bell for what
4 we think is a very reasonable settlement agreement. We
5 also participated in the negotiations and have gotten
6 an implementation agreement that we think meets the
7 needs of all the diverse interests, including MCI and
8 its long distance customers, and we are here in full
9 support of the agreement.

10 COMMISSIONER LAUREDO: It would be less than fair
11 if I didn't ask MCI the same question about access
12 charges.

13 MR. MELSON: I think the answer is the same. I
14 have talked with my client, and we expect that while we
15 are not committing to specific reductions, that the
16 competitive market forces will require us to design
17 products that will ultimately flow these reductions
18 through.

19 MR. CRESSE: Mr. Chairman, Commissioners, my name
20 is Joe Cresse. I work for the law firm of Messer
21 Vickers, et al., and I work under the close supervision
22 of Mr. Ken Hoffman, who is sitting right behind me.
23 I'm here representing the Florida Pay Telephone
24 Association, to advise you that we concur in both the
25 settlement, the stipulation, and the implementation

1 agreement. There is one thing I do want to point out
2 to you, on Page 25 of the Staff's recommendation, they
3 point out, it says, "Overall the disposition of funds
4 proposed by the implementation agreement appears to
5 leave the Commission with a sufficient amount of
6 latitude in which to decide future rate reductions."
7 And I think that's important, and I think that has been
8 left for your disposition.

9 There is one further comment I would like to make
10 on a personal note, I have been following regulations
11 for 15 years, and during the first seven years that I
12 have been following it, I dreamed of having
13 stipulations like is before you brought before me. And
14 I think your approval of it, if you think it's fair,
15 can bring about further negotiated settlements, and I
16 hope you would approve this as rapidly as you possibly
17 can. Thank you.

18 MS. WILSON: Commissioners, I'm Laura Wilson on
19 behalf of the Florida Cable Television Association. We
20 also participated in the negotiations that have been
21 discussed here today, and we are here to support the
22 stipulation and the implementation agreement in their
23 entirety. Thank you.

24 MR. SELF: Commissioners, I'm Floyd Self also of
25 the Messer Vickers law firm. I have been representing

1 McCaw Cellular Communications in the docket, which
2 operates as Cellular One in a great area of Florida.
3 We have also participated in the year-long negotiations
4 that occurred last week. We support the stipulation as
5 implemented by the implementation agreement, and
6 strongly urge your adoption of the stipulation
7 agreement as in the best interest of all the ratepayers
8 as well as the parties, as well. It's McCaw's view
9 that the interconnection services paid by the
10 competitive carriers require cost-based pricing. If
11 you read the implementation agreement closely, you will
12 see that none of the settlement amounts designated in
13 there are presently set forth for reductions in the
14 mobile interconnection tariff. However, the complete
15 package includes a number of interconnection services
16 closer to cost and designates significant sums of money
17 for future rate reductions, and McCaw intends to state
18 its case in those further proceedings for rate
19 reductions for mobile interconnection. In sum, the
20 total settlement helps to fulfill, in our opinion, a
21 number of objectives and critical policies and meets
22 the needs of all customers and parties. In our view,
23 this is a better result than could have occurred had
24 the hearings proceeded. We believe that this package
25 is in the best interest of everyone and urge your

1 adoption. Thank you.

2 COMMISSIONER CLARK: I have a question. Did you
3 sign onto the implementation agreement?

4 MR. SELF: Yes.

5 COMMISSIONER CLARK: Did I see anywhere the caveat
6 you had that you would not pursue the application of
7 those refunds to your benefit?

8 MR. SELF: No. There is no restrictions on McCaw
9 with respect to the '94, '95, and '96 proceedings.
10 Thank you.

11 MR. SHREVE: Commissioners, I believe that is
12 every party that has made an appearance in this case to
13 intervene. And I will kind of wrap things up here. I
14 want to have an opportunity to thank some people. I
15 want to point out that the only way you can have a fair
16 or decent settlement is if both parties or all parties
17 have an opportunity to go forward and look forward to a
18 fair hearing, an unbiased hearing from the Public
19 Service Commission. And I have said this over the
20 years. That's the only way that each party has a fair
21 shot at it. And I think that's what we had here. We
22 had an opportunity to go forward, had it been
23 necessary, to go to a hearing. I think that was one of
24 the biggest pushes for a settlement, provided the
25 opportunity.

1 COMMISSIONER LAUREDO: Excuse me if I fall to the
2 ground, Mr. Shreve, are you praising us?

3 MR. SHREVE: Commissioner, I haven't finished yet.
4 No, I haven't. And I have said that over the years. I
5 don't think there is any way that anyone can ever have
6 a fair settlement or an opportunity to have a fair
7 settlement unless they know they are going to have an
8 unbiased, fair hearing. And I think that goes without
9 saying. It just can't be done.

10 I also want to thank Charlie Beck of my staff, who
11 really has been in charge of this case, and lived with
12 it for years now in putting it together, and the other
13 people on my staff that filed testimony, Earl Poucher,
14 Kim Dismukes, Steve Stewart. I think they have done a
15 tremendous job. I know Bell has relied on their
16 people, and we have all put everything together. I
17 think your Staff has done a good job. They have put in
18 a lot of long, hard hours.

19 I think what you have heard from here, and this is
20 the first time since I have been here that every party
21 came in feeling that what they had before them or the
22 opportunity they had was in the best interest of their
23 clients, and of the people of the State of Florida.
24 You have the Attorney General, Florida Consumer Action
25 Network, AARP, and myself that feel that we represent

1 the customers in the State of Florida. I also feel
2 that my charge is to represent the other customers
3 which you have heard from today that are very real
4 customers and very large customers. We haven't
5 discussed our fee as to how it would come to me, but
6 they also, of course, as always do, have their own
7 representation. Their interest has not been just in a
8 part of this settlement, but in the overall settlement.
9 Because if there was not a sufficient amount available
10 in the settlement, it wouldn't have worked out. I am
11 very comfortable with the fact that we could not have
12 done better.

13 I think a great deal has been accomplished here,
14 and I want to thank Southern Bell and Joe Lacher,
15 because I think -- now, you have to understand, and I
16 think most of you that have seen us in action for
17 awhile know we were advocates and we were acting as
18 adversarial parties, and there were some times that it
19 was very adversarial during the negotiations. But I do
20 think Joe has negotiated in good faith, I think Bell
21 has taken some good faith positions, and I appreciate
22 the way everything has worked out. I appreciate the
23 way that everybody has gotten everything together and
24 worked things out, so that we made a provision so that
25 you could go on to a hearing if needed, but maybe it

1 won't be necessary, because I think we followed your
2 instructions and tried to work out the rest of the
3 details. I guess with that, it's up to you. And I
4 think any of us would welcome any questions that any of
5 you might have as far as I'm concerned about anything.

6 CHAIRMAN DEASON: Questions, Commissioners?

7 COMMISSIONER LAUREDO: Mr. Chairman, I don't want
8 to be melodramatic, but this is truly an historical
9 occurrence. And while everybody has praised some of
10 the parties for their work, et cetera, I would like to
11 highlight and praise them for the courage that I think
12 entails working out an agreement of this magnitude.
13 Now, I use that word selectively. Compromise,
14 settlements, stipulations, whatever you call them are
15 inherently imperfect, and, therefore, opens you to
16 criticisms from the people you represent. The infamous
17 Monday morning quarterbacks of the nonparticipants of
18 life, who from the sidelines are always second-guessing
19 those who are in the arena. And I think that
20 Mr. Shreve and Mr. Lacher particularly need to be
21 highlighted in that effort, and also Charlie Beck, who
22 did most of the work. And the Attorney General, Mr.
23 Butterworth, and Monte, you know, we are going to miss
24 you. I'm going to miss you in all of those hearings.
25 Fifteen, I went to, I think, every one of them. Pots

1 and pans and all the dramatic stuff. And the AARP,
2 particularly the citizens from AARP who showed up and
3 all of the parties.

4 But I wanted to also point my appreciation to the
5 Staff for the work they have done in keeping this on
6 focus. And lastly, for the analysis of the
7 stipulation. I think without your very clinical
8 following of this case, which I may add you have never
9 gotten enough praise. You were the ones who initiated
10 the investigations back before I even was on this
11 Commission a lot of the stuff had gone on. But I think
12 special recognition goes to my fellow Commissioner
13 Clark, who had the unfortunate task of being assigned
14 as the prehearing officer. It was a very difficult
15 year and a half or two years, and I think she handled
16 it in such an elegant and fair way that she needs to be
17 commended. And I, as one Commissioner, commend you.

18 COMMISSIONER CLARK: Thank you.

19 COMMISSIONER LAUREDO: And although I almost lost
20 my breath with as close as Mr. Shreve has ever come to
21 praising us, I appreciate the remarks, because I think
22 also the behavior and the fairness of this Commission,
23 I think, also set the tone as people say, as the
24 Japanese say, the people who read the tea leaves were
25 noticing which way we were operating and which way we

1 were looking at the issues. And I think that was a big
2 impetus to, I think, a very dramatic move. As you
3 know, it's not a secret, I said during my swear in last
4 week that if I wanted to contribute something to this
5 Commission, it's to try to move us in a direction of
6 working together to develop a better and more
7 productive and efficient atmosphere, a regulatory
8 atmosphere. That's where we have to be, particularly
9 in telecommunications where things are changing almost
10 on a weekly basis. And I think that's where we need to
11 be as a country if we are going to be competitive in
12 the global environment. So, I just think while we joke
13 about it, it truly is an achievement of great magnitude
14 and all of you deserve the credit. And I applaud you
15 for it.

16 I do have a couple of questions if we are going to
17 move onto the text itself. The first one is are we
18 going to approve today the stipulation agreement or are
19 we going to also talk about -- or is there an approval
20 necessary for the implementation agreement, or are they
21 interlinked?

22 MR. HATCH: Both are presented to you as a
23 package, as far as the stipulation and the
24 implementation agreement. You would, by voting up the
25 stipulation, be voting up both of them, essentially.

1 They are presented as a full package for both of you.
2 In fact, both of them are included in Staff's
3 recommendation.

4 COMMISSIONER CLARK: To be specific, we can't say
5 yes to the stipulation and say no to the
6 implementation.

7 MR. HATCH: That's correct.

8 COMMISSIONER LAUREDO: It's just that several
9 parties referred to the implementation agreement, which
10 is of more importance to them than the stipulation
11 agreement. So they are one in the same for the
12 purposes of this up and down vote?

13 MR. HATCH: It's my understanding the way that was
14 put together is that the parties have essentially
15 signed onto the -- which essentially everybody has
16 endorsed the implementation agreement as well as the
17 stipulation. But it becomes essentially an addendum to
18 the stipulation agreement, so it is one item.

19 CHAIRMAN DEASON: Let me ask a question in that
20 regard. Being that now all parties have signed off, I
21 understand that it would not be necessary to issue this
22 as a PAA if the Commission is inclined to approve this
23 stipulation.

24 MR. HATCH: That's correct.

25 COMMISSIONER LAUREDO: So whatever we do today

1 will be a final order?

2 MR. HATCH: Yes.

3 MR. SHREVE: Commissioner, could I respond to your
4 question about the implementation. As you noticed, I
5 did not sign on the implementation agreement, the
6 Attorney General did not, FCAN did not, and AARP did
7 not. It's my understanding from all of the parties
8 that did sign on the implementation agreement that they
9 will not object to the stipulation, and all the parties
10 that I just named, if the stipulation and the
11 implementation agreement is approved by the Commission,
12 then we have no objection to the way the implementation
13 agreement is tailored. So with that, you do have every
14 party signing on and endorsing the total package.

15 COMMISSIONER LAUREDO: You know, I forgot to note
16 on a personal level how much I resent the fact that you
17 announced this on the 5th. And I think if there is one
18 time you could have broken the ex parte rules is to
19 tell at least me. I took a lot of reading home over
20 the holidays I would have liked to have skipped.

21 MR. SHREVE: Mr. Lacher and I discussed whether we
22 could discuss it with the Commissioners individually
23 and exactly how --

24 COMMISSIONER LAUREDO: Couldn't you have given me
25 a wink or something? (Laughter)

1 MR. SHREVE: I could have done that.

2 COMMISSIONER LAUREDO: I have a question, and I
3 guess it's Staff or whomever. I have a problem, and
4 Staff highlighted in the recommendation on Page 19, on
5 the service guarantee and the loose criteria for
6 customers to qualify for this rebate. And when I read
7 that originally before I read the recommendation of
8 Staff, I just saw it as a Pandora's box. I mean, are
9 we going to have everybody in Southern Bell's territory
10 call in for the \$25 and \$100, respectively?

11 MR. LACHER: May I speak to it, Commissioner?

12 COMMISSIONER LAUREDO: Yes.

13 MR. LACHER: No, we anticipate very closely
14 mirroring the GTE tariff that has already been
15 approved. We had some minor concerns about the wording
16 that we proposed to incorporate and submit in time for
17 this Commission to review so that it would be effected
18 by it.

19 COMMISSIONER LAUREDO: So I just want to make sure
20 that on that section that we will use that criteria,
21 and it will be filed as a tariff later. And so that
22 will be inherent in whatever vote we take today,
23 because the way it's worded it's just like, you know --
24 and the last question I have is a troubling
25 philosophical as well as a legal question. I don't

1 know if any other Commissioner has, is about Lifeline.
2 I have gone like -- I guess the saying is if you go 360
3 degrees, what happens when you go around it twice? I
4 mean, I came to this Commission, that was one of the
5 things I was more frustrated about, particularly in
6 water cases, where I saw people who truly I felt were
7 really a dollar -- while it made economic sense for the
8 state and for the whole well-being and long-term
9 viability of companies, really that would break their
10 budgets. And so I was very -- and I remember I brought
11 this up, remember, my first naive year here. And every
12 time I was shut down. I didn't call it Lifeline, I
13 didn't know what to call it. I just tried to figure
14 out is there something we can do for these people. And
15 I was told it was absolutely, completely 100 percent
16 illegal under the Florida Statutes. You could not
17 discriminate as to people. Now, in essence, Lifeline
18 as presented here is a deviation from that view, and
19 I'm troubled by it. And I'm troubled, one, by the
20 legality, and the other one for the potential for
21 abuses.

22 But I don't know which -- philosophically, I just
23 worry that there may be a lot of people, Mr. Bell, who
24 were probably not even members of AARP or the people
25 you represent that would abuse it. We happen to be at

1 a time in our country where at the federal level and
2 every other level, we are moving into an area of
3 efficiency in government. And as you know, one of the
4 big things this year is going to be welfare reform.
5 And here is something that borders on welfare. In
6 fact, the agency that is so-called the welfare agency
7 of the state is going to have a role in determining
8 this. And it just brings a lot of nightmares of abuses
9 I know of from my other activities in life. And I just
10 wonder how you react to that in the philosophical
11 sense, and perhaps also on the legal sense, of the
12 legality of it. And from Staff, as well, in fact.

13 MR. BELL: Commissioner, it sounds like you're
14 really addressing two concerns simultaneously. The
15 first is the potential for abuse in the program, and I
16 will allow Southern Bell to step in and comment about
17 that, as well. But, actually, AARP had originally
18 proposed a program that called for self-certification
19 and self-verification. And through negotiations with
20 Southern Bell, we have arrived at a program that will
21 have both certification and verification through a
22 rather simple procedure that they have established with
23 HRS. And the people who qualify for the program will
24 be people who are on one of the four major public
25 assistance programs in Florida. Our statistics

1 indicate that while 93 percent of the people in the
2 State of Florida receive telephone service as a
3 collective group, 20 percent of the people who qualify
4 for one of the four major public assistance programs do
5 not receive telephone service. So the program is
6 rather well targeted, we think, to that particular
7 group of people.

8 As to the legality of the program, I think that
9 you're correct to sort of describe this as a question
10 of philosophy and conscience. I think that it comes
11 down to a situation where I believe Staff would agree
12 with me that the Commission does have the discretion to
13 implement this program. It is a question of policy.
14 From my perspective, the poor have historically been
15 overlooked in the ratemaking process, and this is
16 probably a program that should long ago have existed.
17 We do have other kinds of differences in rates, and
18 those differences are attributable to the kinds of
19 powerful organizations that can come before the Public
20 Service Commission to argue their position. The poor
21 have historically not been present at these types of
22 proceedings. In fact, I think I would argue that
23 basically this is not any different than any other type
24 of value-based billing. The poor do not typically
25 receive the same kind of benefit from basic telephone

1 service that I receive from basic telephone service. I
2 have access to long distance, all kind of other
3 peripheral services that the poor typically will not
4 subscribe to. Nonetheless, it's a very valuable
5 service to them. It could make the difference between
6 having a job and not having a job. Being able to
7 contact your children and not contact your children.
8 But there is a substantial difference in value that I
9 think justifies the difference in rates.

10 MR. LACHER: Commissioner, if I could add onto
11 that. In the negotiations we, too, addressed the issue
12 of legality, and I think as one of the things we have,
13 and it's an advisory opinion from the Attorney
14 General's Office, that this, in fact, is legal. From
15 my perspective, it's very much akin to the fact that we
16 offer free directory assistance to handicapped persons.
17 And, in fact, in the negotiations for designing this
18 tariff, we worked with about half a dozen individuals
19 from HRS to specifically develop some guidelines that
20 would prevent abuse, because that was one of our
21 concerns. And while the potential still exists, the
22 risk is very light, we believe. We think we have put
23 in fairly simple controls that will allow us to address
24 the targeted group that Mr. Bell mentioned without the
25 risk of serious abuse. But abuse is always a potential

1 with any tariff, and we think we have got it covered
2 reasonably well.

3 COMMISSIONER LAUREDO: May I just follow up?

4 COMMISSIONER JOHNSON: Is the Attorney General's
5 Office here? I was wondering, I did want to -- I
6 notice that you did join in on the motion specifically
7 supporting Lifeline. I was unaware of the advisory
8 opinion, and perhaps you could articulate your position
9 with respect to the legality of the notion. It would
10 be helpful.

11 MR. GROSS: I'm not certain that the document that
12 we filed is properly characterized as an advisory
13 opinion, but we have filed a notice stating our
14 position in this particular proceeding. Our position
15 being that it is legal. And just from taking a look at
16 the legislative scheme, it appears that the overriding
17 public policy of the state is to make telephone
18 service, basic telephone service, available at a
19 reasonable and affordable price in the furtherance of
20 the public health, safety and welfare. And then there
21 are the anti-discrimination statutes, which appear to
22 be calculated to prevent price discrimination as an
23 anti-competitive device between or among competing
24 business entities. So it doesn't seem that those
25 anti-discrimination provisions apply to this particular

1 type of situation. And in order to reconcile the
2 statement of public policy in 364.01, and the intent of
3 the anti-discrimination provisions, I think the more
4 narrow construction has to be given to the
5 anti-discrimination provisions.

6 COMMISSIONER CLARK: What does that mean? I don't
7 think I understood that, I'm sorry. Here is my
8 dilemma. In a sense, I think what you have said is
9 that we ought to price this service based on ability to
10 pay. Would that be a fair statement?

11 MR. GROSS: Yes.

12 COMMISSIONER CLARK: Well, where does that end?
13 If you meet a certain level you should have it at this
14 rate. Why not make it increments, depending on your
15 income level? Here is my concern, is that you invite
16 us to step over a slippery slope, and at what point --
17 how can we justify making it available to these groups
18 of people, and then say when we have a non-profit
19 organization that caters to abused women or some other
20 entity that serves a good public purpose, why shouldn't
21 they get a reduced rate? Because certainly having to
22 pay for their utility bills and their phone bills
23 impacts what services they can otherwise provide.

24 MR. GROSS: Well, I'm just giving an opinion as to
25 the legality of it. Now, I agree that it would have to

1 be addressed on a case-by-case basis, and I think one
2 could hypothesize numerous scenarios, as you have just
3 done.

4 COMMISSIONER CLARK: Well, I'm asking you to
5 suggest to us where we would draw the line. Because I
6 don't think we can lightly say that because it's
7 Lifeline it's a good idea, and not look at the
8 implications of adopting that philosophy with respect
9 to other people who have similar needs. That may not
10 fit that particular criteria, but have similar needs.
11 Let me ask you a slightly different way. We have in
12 the past in rate proceedings found that any type of
13 charitable contribution by a utility is not an expense
14 that is recoverable in rates. And as I understand the
15 Lifeline rates, there will be some diminution in
16 revenues that you can say is, in fact, a contribution
17 from the rest of the ratepayers to a class of
18 ratepayers. How is that different? How can we say
19 that you should allow this difference in rates, and
20 some other deserving charity comes in and instead of a
21 change in rates wants a straight contribution? How can
22 we make that distinction?

23 MR. BELL: Commissioner, if you would allow me to
24 interject myself, I might be in a better position.

25 COMMISSIONER LAUREDO: Mr. Bell, I think you ought

1 to find a seat, because we probably have a lot of
2 questions on this particular item, and you are central
3 to that.

4 MR. BELL: First of all, I would offer two
5 suggestions with regard to your comments, Commissioner.
6 First, the Lifeline program originates with the FCC.
7 This is a program that is provided for through FCC
8 regulation. They provide a \$3.50 matching program, so
9 that it's not really something that originates with
10 this Commission.

11 Second, as I emphasized in my earlier comments, I
12 think for one thing you can return to the question of
13 customer value as a sort of a -- kind of a question of
14 value-based billing. And in that instance, if you use
15 your hypothetical of the abused women, for example,
16 it's difficult to determine how they receive any
17 greater or any lesser benefit from the telephone
18 system, or why they should pay any less or any more.
19 Their particular condition is unrelated to a need for
20 the delivery of telephone services, or a difference in
21 value that would be received by them.

22 Finally, I would offer this comment --

23 COMMISSIONER CLARK: Wait a minute. Contrast it
24 with the constituency you intend to target. How is a
25 group that serves a valid public purpose different

1 than --

2 MR. BELL: This particular group of people has a
3 particular need based on the fact that they do not have
4 the ability to pay. That relationship does not
5 necessarily exist in a group of, for example, abused
6 women, or some other category of people.

7 As the final comment, I would sort of conclude
8 that area where I started off, and that is that it is a
9 question of Commission discretion. I do think that
10 this is a particular instance where a difference in
11 rates is justified, but I do think in the future, if
12 and when those kind of cases come before the
13 Commission, the Commission would have to address those
14 on an individual basis.

15 COMMISSIONER LAUREDO: Well, you're aware that our
16 Staff -- correct me if I'm wrong -- but I remember from
17 a year ago when I brought it -- I was on the other side
18 of the issue -- told me that, and I, ironically, as a
19 non-lawyer, I had read the statute and thought that it
20 was more targeted at that time toward the market forces
21 and monopoly practices rather than differentials that
22 we would have the discretion to make. I think their
23 opinion then is the same as today, is that --

24 MR. HATCH: That's correct, Commissioner. Our
25 opinion has been that the Lifeline types of services

1 are precluded by the existing anti-discrimination
2 statutes in 364. That has not changed. One thing that
3 I would clarify is, and the only thing that I would
4 take quibble, and this may be something of semantics,
5 but I want to be sure, is that when Mr. Wood (sic) says
6 you have the discretion, that implies two or more
7 choices amongst a legitimate set of choices. And I
8 don't think you have the discretion to say Lifeline is
9 or is not legal. Either it is legal or it's not legal.
10 It's not a matter of discretion, but it is certainly a
11 matter of interpretation. And these statutes are far
12 from clear in terms of directive as to what
13 specifically is and is not. There is plenty of room
14 for interpretation. It is Staff's interpretation in
15 its recommendation to you that Lifeline is precluded as
16 unreasonably discriminatory under the statutes.

17 CHAIRMAN DEASON: Let me ask a question in this
18 regard. Correct me if I'm wrong, but doesn't the
19 statute make reference to the term "undue
20 discrimination"?

21 MR. HATCH: One of them. You have to sort of wade
22 through all three of those statutory provisions. There
23 is 364.08, .09, and .10. One of those has to do with
24 unreasonable discrimination, and that is 364.10. That
25 chunk says -- it's a short piece, actually. "A

1 telecommunications company may not make or give any
2 undue or unreasonable preference or advantage to any
3 person or locality, or subject any particular person or
4 locality to any undue or unreasonable prejudice or
5 disadvantage in any respect whatsoever." But you've
6 got to match that with the other provisions in the
7 other statutes. For example, 364.08, where it says,
8 "Telecommunications companies subject to this chapter
9 may not directly or indirectly give any free or reduced
10 service between points within the state." And then it
11 goes on to say, "However, it shall be lawful for the
12 Commission to authorize employee concessions."

13 Those of you that have been around the Commission
14 for a long time will remember there was an extended
15 debate over the years about employee concessions. Was
16 it authorized under the discrimination statutes or was
17 it not. One school of thought says it's part of an
18 employee's employment package, and it was authorized.
19 One school of thought says, "No, that's a free or
20 reduced rate that the statute precludes." The
21 Commission finally issued a policy statement that said
22 it's unreasonable under this statute. And then that
23 statute was changed to specifically add employee
24 concessions.

25 In a sense, that's where Staff is now. You can

1 argue whether it's a good idea or a bad idea, but
2 Staff's recommendation, or at least one part of it, the
3 legal part of it, says it's not authorized by the
4 statute, and that the Lifeline needs a legislative
5 authorization to make it clear. Otherwise, you end up
6 on the slippery slope that Commissioner Clark has
7 alluded to.

8 CHAIRMAN DEASON: Well, let me offer a couple of
9 comments. One is I do want to highlight the term
10 undue. I think it could be interpreted that that has
11 particular reference to picking out a particular
12 individual or particular location and giving them some
13 preferential rate. It perhaps does not extend to a
14 well-defined group, and I think Mr. Lacher has made
15 reference to the fact that they went to great effort to
16 try to come with a defined group that is defined by an
17 independent agency who has the responsibility of
18 defining such groups for various governmental reasons.
19 I also think that there can be made a distinction when
20 it comes to telephone service and other types of
21 utility services. A customer of electric service
22 really doesn't benefit from another customer getting
23 electric service. But a telephone customer does
24 benefit from the fact that more people are on the
25 network, because if there was only telephone and you

1 had it and you couldn't call anybody, your service
2 would be worthless. So the more people that are on the
3 network, it improves the quality or the value of the
4 network to everyone else. I think we have statistics
5 which have been given which shows that for the targeted
6 group, there is a higher proportion of people not on
7 the network than for the population as a whole. And I
8 think the fact that we are trying to target this group,
9 and it's a well-defined group, the requirements are set
10 by an independent agency, and realizing that if those
11 persons so choose to get on the network because of this
12 program, that it improves the quality or improves the
13 value of the network to all other subscribers. So, in
14 that sense it's really not a charitable contribution.
15 It's like what's the best way to improve the network
16 for all subscribers. And in that way I think a
17 distinction can be made. So perhaps it's not as
18 slippery a slope as we may think it is.

19 MR. HATCH: I'm concerned with you taking the
20 rationale that because more people on the network make
21 it more valuable, therefore, you avoid the problems of
22 class-based discrimination. Because under that
23 scenario, if you take it to its logical conclusion
24 seemingly, then we would provide for every person in
25 the state to have a phone, regardless of an income

1 level.

2 CHAIRMAN DEASON: Well, I think it goes back to
3 some discretion with this Commission in what is
4 reasonable.

5 MR. HATCH: Oh, no question about that. But I'm
6 very concerned that's where it leads you to go, in a
7 sense, similar to what Commissioner Clark has alluded
8 to. At which laudable cause do you draw the line?

9 COMMISSIONER KIESLING: Well, I have a slightly
10 different perspective, and that is that, you know,
11 going back to what you originally said, this particular
12 proposal is either legal or illegal. I don't think
13 it's necessary for us to draw other lines today on
14 hypothetical situations. I have read these three
15 statutes now several times, in the last few days, and I
16 just -- when I read them together, I do not get the
17 same reading that was set forth in our Item 10, which
18 is now subsumed into the settlement agreement.

19 I am forced to agree with Mr. Gross from the
20 Attorney General's Office that this proposal is not
21 discriminatory within a fair reading of those statutes.
22 And to me that's the only question; it's either legal
23 or illegal. I obviously don't have the benefit of
24 having been with the Commission for many years,
25 especially within the historical perspective that was

1 provided under our Item 10. But just dealing with this
2 case, the statute and my reading, I'm absolutely
3 comfortable that this proposal is legal. I understand
4 that differs from your point of view.

5 COMMISSIONER LAUREDO: Mr. Bell, some people would
6 say that there is already programs or tariffs in place
7 that take care of this. Namely, the one with the very
8 low -- I forget the name -- very low monthly charge and
9 a limited number of --

10 MR. BELL: Message service rate.

11 COMMISSIONER LAUREDO: -- that you have a number
12 of calls, and that takes care of all the emergencies.
13 You know, we heard in some of the hearings people who
14 literally -- and do, I know, some of them call every
15 day.

16 MR. BELL: I would have two comments to offer on
17 that, Commissioner. First, I would return to the
18 statistics that I gave you earlier, and that would be
19 that amongst the targeted group of people that this
20 program would be available to, 20 percent of the people
21 do not receive telephone service. I think that's the
22 strongest possible indication that there is a need for
23 this program in spite of what other services might be
24 available out there.

25 Also, the particular service that you mentioned,

1 and I don't know if it's an error in the materials that
2 we have in the Staff recommendation, but it appears
3 that there is a comparison drawn between the Lifeline
4 program and the message rate program based on a \$3.50
5 reduction in rates from the Lifeline program, when, in
6 fact, the reduction would be \$7.00, given the \$3.50
7 match from the federal government, so that there is a
8 substantial improvement in the reduction of rates with
9 the Lifeline program. Also, the message rate, if you
10 examine the information that is in your materials, you
11 will find that under that program you get to make 30
12 telephone calls a month. Well, for the average person,
13 certainly I know that in my life my family makes 30
14 telephone calls a day. Often I make 30 telephone calls
15 a day myself.

16 COMMISSIONER LAUREDO: Yes, but we're not talking
17 about you and I, we are talking about people who we
18 heard in your 15 hearings that said the telephone is
19 not a luxury, telephone to us is a link to the outside
20 world. A telephone is, in fact -- I mean, there was
21 one lady particularly, you might have been in that
22 hearing, that had to make a call every day just to let
23 somebody else know that she was still alive.

24 MR. BELL: Commissioner, I'm not suggesting that
25 the message rate is not a good program. And I agree

1 that that serves a particular group of people. If a
2 customer who really needs a Lifeline program, though,
3 subscribes to the message rate service, and makes 60
4 calls per month, then they are going to pay above the
5 current basic rate in most cases, because they have an
6 additional 10 cents per telephone call charge after the
7 first 30 telephone calls. What I'm suggesting is that
8 that, too, is a good program, it just does not serve
9 this particular constituency of people.

10 COMMISSIONER LAUREDO: Let me just see if I can --
11 because I have three problems with this thing. One is
12 legal, the other one is philosophical, and the other
13 one is implementation. And I guess legal, I have spent
14 a lot of time trying to figure out, and we have got the
15 one-handed or two-handed economists theory here. I
16 hear from one lawyer one thing and I hear from another
17 lawyer something, so I guess if we pass something like
18 this, somebody -- how do you address that? I guess the
19 court or somebody will challenge it and eventually --
20 is that how it goes?

21 COMMISSIONER JOHNSON: With respect to the
22 legality issue, I think after reading the provisions
23 that Staff has set forth in their analysis in Issue 10,
24 quite frankly I had the same reaction as Commissioner
25 Kiesling, that at best the law might have been somewhat

1 ambiguous. I didn't think it was so clear as to tell
2 me we don't have the legal authority to do this.
3 Particularly when I looked at Section 364.10, where
4 there are references to undue and unreasonable
5 preference or advantage. And I would say that in the
6 face of at best the ambiguity, we still have a job to
7 do. And as opposed to Staff's approach of let the
8 legislature tell us what's right, I would say let's
9 act, and to the extent that we have done something out
10 of our authority, because we have a job to do, and this
11 is a living Commission, let them tell us that we are
12 wrong. Though with respect to the legality issue and
13 the references as stated in the brief and the arguments
14 raised by Mr. Bell, I would agree with Commissioner
15 Kiesling, and I don't think we have an issue with
16 respect to legality. And if we do, perhaps it will be
17 challenged in the court or changed in the legislature.

18 COMMISSIONER CLARK: Wait a minute. If you think
19 it's a valid thing to do, we can go over there and say,
20 "We think you ought to allow it for Lifeline."

21 COMMISSIONER JOHNSON: Or we can allow it for
22 Lifeline and still say, "Let's just clarify this. We
23 have done this, and we know this is the right thing, go
24 ahead and put it in black and white."

25 COMMISSIONER KIESLING: Well, my view is always

1 it's easier to ask forgiveness than it is permission.

2 COMMISSIONER JOHNSON: Mine, too.

3 COMMISSIONER KIESLING: And for me, I see a need.
4 I mean, I am personally familiar with the need. In the
5 area that I live in there are lots of people who do not
6 have telephone service because they are extremely poor,
7 and they are on public assistance of one form or
8 another. The need is there, and I would rather go
9 ahead and do what I believe is right, and that I think
10 is certainly arguably legal under the statute, and then
11 if I have to ask forgiveness later for having made that
12 mistake, I will take that heat, as opposed to having to
13 go to the legislature and wait around, you know,
14 certainly through this session to get an answer.

15 COMMISSIONER JOHNSON: There was another issue
16 raised by Staff with respect to the Lifeline idea, and
17 I think Staff couched it as a fundamental issue, and
18 that is who should pay for this service that Staff has
19 characterized as a social service or a social good.
20 And as I look at the issue as a whole, I think the
21 biggest beneficiaries of this are not the taxpayers as
22 a whole, but are the ratepayers. Again, probably
23 because of the community that I'm from and the
24 background that I have, having that additional access
25 to those individuals, my parents have had businesses

1 call saying one of your employees does not have a
2 telephone, can you get them X message. They would
3 appreciate it if that customer had the ability to pay
4 those bills and could open up the market to them. I
5 think there is a direct nexus and a direct benefit to
6 those being served by this particular service within a
7 fragment or a faction of the population as opposed to
8 this being assessed to the taxpayers as a whole.

9 COMMISSIONER LAUREDO: Could you spend just a
10 minute explaining the -- I call it subsidy. I mean,
11 the who pays question, which is a key question in this
12 Commission? The 3.50 FCC and how that supplements, and
13 where that money comes from?

14 MR. BELL: In terms of the philosophical approach,
15 I think I would share Commissioners Johnson's view,
16 that other people, non-Lifeline recipients are the
17 greatest receivers of new value by adding these people
18 onto the network. In terms of explaining how the
19 matching program works and that sort of thing, it might
20 be best for me to refer you to Southern Bell.

21 MR. GRISWOLD: If I may, from Staff's point of
22 view, the reason why I included the remarks on who
23 should pay is in a situation where you have been
24 assessed a tax, shall I say, you can hunt the people
25 down, for lack of better terminology. In this there is

1 no recourse for the people, that was why I included it.
2 In response to the \$3.50 question, that is assessed
3 from NECA, on the interexchange carriers who pay that
4 offset, with the remaining \$3.50 being included in the
5 plan.

6 COMMISSIONER LAUREDO: So the short answer to my
7 question is people who use the long distance carriers
8 foot half of it, and the other half the rest of us foot
9 it.

10 MR. GRISWOLD: That's right.

11 COMMISSIONER LAUREDO: And I'm going to engage you
12 just -- we are going to put aside the legal, because we
13 are not going to get anywhere on the legal, unless Mr.
14 Shreve has something on the legal, and just try to find
15 out more of your thoughts on the philosophical plane.

16 MR. SHREVE: Well, just on the legal, there
17 probably is not a single issue that comes before this
18 Commission of any importance that you don't have
19 lawyers going in different directions. Everybody has
20 different opinions, and I agree completely with
21 Commissioner Kiesling and Commissioner Johnson, you can
22 have different opinions on this. And I think there are
23 enough of us out here that if you want to vote this out
24 and it's challenged, we will commit to go ahead and
25 defend it. If at that point we lose, then perhaps the

1 legislature would like to take a look at it. But I see
2 no need to go to the legislature at this point with it,
3 because every time you go to the legislature with
4 something, or the utilities go to the legislature with
5 something, you don't know what you're going to get
6 back. You may get a lot more than you wanted. But, I
7 don't see that much of a problem here.

8 And Commissioner Lauredo, I understand where
9 you're coming from on this and the questions that
10 you're raising. Commissioner Clark, as far as looking
11 forward and trying to determine where you are going
12 with this, I don't see that as being necessary at all.
13 When you put a payphone in an area that is needed
14 because of social reasons, and that payphone is ripped
15 off, and it has got to be there, somebody is going to
16 be paying for that. But it's a necessity, and you have
17 voted that way. If you have a water and sewer customer
18 subsidizing other water and sewer customers, is that
19 discrimination? If you have a water and sewer
20 customer, such as one voted out not too long ago, pay
21 for something, water conservation, which is not --

22 COMMISSIONER CLARK: Jack, I don't disagree with
23 you, but my concern is the way you make the choice is
24 ability to pay, not the service provided.

25 MR. SHREVE: But there can be discrimination from

1 any number of things. Is it discrimination if you have
2 to run a power line out to an island so that the rest
3 of the customers have to pay an additional amount for
4 that, but you still keep the same rates for everyone?
5 I guess where I'm going is, what Commissioner Deason,
6 Commissioner Kiesling, Commissioner Johnson, we are
7 talking about undue and unreasonable. You have to make
8 some judgment calls. There is absolutely no way you
9 can make all rates nondiscriminatory. You are going to
10 have some subsidization no matter what you do. And
11 very clearly in certain situations, you vote it out for
12 one customer to subsidize another, which in itself is
13 discrimination. But that's what you're here for.
14 There is just no way you're going to do it, and I agree
15 completely with you.

16 COMMISSIONER LAUREDO: Yes, but the corollary to
17 that argument, Mr. Shreve, is that one is always
18 cautious as one matures here to make sure that we don't
19 open loopholes through which other less deserving
20 people can try -- and I can just salivate, and I have
21 struggled with this, believe me, over the last two
22 weeks. I mean, I can just sit here as, for example,
23 I'm just going to use a ridiculous example, the
24 undergrounders, who you know well, on the electric
25 sector, and our arguments against them, and the fact

1 that you should not be receiving a special privilege.
2 And the people in Liberty City are, in essence, paying
3 for you having your wonderful underground lines in
4 Daytona Shores and in the other island on the west
5 coast. And I think the so-called where do you draw the
6 line I echo, which I think is what Commissioner Clark
7 is saying. And we have been struggling.

8 I personally, like I said at the beginning, have
9 come around, because I haven't gotten into the
10 implementation, and my concerns there. But let me just
11 read this to you, because actually Commissioner
12 Kiesling used in her exposition the word public
13 assistance. Let me just quote you, and react to this
14 quote. Particularly you, Mr. Bell. "There may be a
15 broad social consensus that we ought to do something
16 about people that would be excluded by purely
17 cost-based prices from enjoying what we may have come
18 to regard as a necessary component of minimum
19 acceptable standards of living. And that we ought to
20 do so without resorting to the economically superior
21 method of direct government subsidies." Shouldn't this
22 target group be a group that government directly -- and
23 I don't want to tell you who that quote is from,
24 because it's someone I don't admire. But it's a very
25 well known thinker of regulatory matters.

1 MR. BELL: I think that Commissioner Johnson
2 addressed that point better than I could have myself.
3 Essentially, the ratepayers are going to pay for this
4 service.

5 COMMISSIONER LAUREDO: And why not the taxpayer?

6 MR. BELL: Because ratepayers will be the ones who
7 receive the benefit of adding these additional people
8 to the network.

9 COMMISSIONER CLARK: But ratepayers will not have
10 a choice as to whether or not they want to endorse this
11 kind of social program.

12 MR. BELL: That is correct. But they also do
13 not --

14 COMMISSIONER CLARK: But if the taxpayers do it,
15 if it is done through governmental assistance, they
16 have a choice by who they vote for.

17 MR. BELL: Commissioner, you know, with all due
18 respect, I think we could characterize any rate
19 decision that the Commission makes as a social
20 decision, and make the same kind of argument about that
21 particular rate decision. And there are all sorts of
22 differences in rates out there. There is just not one
23 right now that is particularly to the benefit of poor
24 people.

25 COMMISSIONER CLARK: Well, to my knowledge we have

1 not identified classes on the basis of ability to pay.
2 Have we done that?

3 MR. HATCH: We have not done that historically.
4 In every case where there has been a discrimination,
5 and Mr. Shreve and Mr. Bell are right, tariffs are rife
6 with discrimination in the sense of differing rates for
7 differing services. But in every case, including what
8 Mr. Lacher alluded to as free DA, every one of those
9 were tied to the provision of service itself. You have
10 not divorced the provision of service or the
11 accessibility of service from the provision of service.
12 And this will be the first time you cross that line.
13 While I'm not concerned about whether someone will
14 challenge this decision and you will lose, I'm
15 concerned about the next one where you put yourself in
16 an arbitrary and capricious box.

17 COMMISSIONER CLARK: Let me ask before you answer
18 the question, let's just assume you can do it. And you
19 have identified that there are 20 percent of the people
20 on public assistance cannot afford phone service. Have
21 you looked at the Staff's recommendation where they
22 make comparisons to those states where they have Linkup
23 and Lifeline, can you give me the statistics with
24 respect to those people on public assistance? Is it 20
25 percent, or have they achieved a better penetration

1 rate because of this?

2 MR. BELL: Quite frankly, Commissioner, I cannot
3 give you that information.

4 COMMISSIONER CLARK: Well, here is my concern. If
5 you look at the numbers there you will see that --

6 MR. BELL: There are fluctuations.

7 COMMISSIONER CLARK: Yes, but if you look in the
8 aggregate, if you just look at California, which has
9 both, the percent of units taking service, the increase
10 from 1995 to 1992 is not as great as it is in Florida.
11 And I think the Commission back when this was first
12 presented identified the fact that the real hurdle for
13 these people was the up-front charges.

14 MR. BELL: Well, you know --

15 COMMISSIONER CLARK: Have you concluded that this
16 is, in fact, going to be a beneficial program? Because
17 it doesn't look like it made any difference in
18 California.

19 MR. BELL: Yes, we have concluded that,
20 Commissioner. And we do have the Linkup program in
21 Florida, which is intended to target this particular
22 group of people. But it is not a continuing service
23 for them. It's intended to help people get hooked up
24 to telephone service, where lots of people it does
25 little good to get hooked up to telephone service if

1 you can't afford to stay on it, or if it imposes too
2 great a burden on your budget to continue to receive
3 telephone service.

4 MR. LACHER: Commissioner, if I may, as probably
5 the only non-lawyer on this side of the room comment on
6 it. I have rarely been accused by the Office of Public
7 Counsel of being on the side of the angels on various
8 issues, but it seems to me that with this issue we are
9 confronted with the classic differing legal opinions.
10 Something all of us in business deal with all the time.
11 And I'm comfortable from the legal advice that I have
12 gotten that it is legal. The issue as to the slippery
13 slope seems to me has been defined by how we have used
14 it as part of the implementation criteria, Commissioner
15 Lauredo. We have identified four major sources for
16 welfare recipients; food stamps, the AFUDC recipients,
17 the monthly Medicaid recipients, and so forth, that by
18 a relatively easy tape verification we can confirm
19 whether, in fact, the proper recipients are there.

20 COMMISSIONER LAUREDO: But, you know, Mr. Lacher,
21 I have to interrupt you, because that frightens me more
22 than anything, the implementation aspect. Our
23 so-called welfare system, both at the state and federal
24 level, between you and I and the public that is here,
25 we all know that it's full of fraud. We have had

1 enormous problems in our state system, as you know, if
2 you just read the papers. As we speak there are lots
3 of problems. And that's why I said that was my third
4 concern, implementation. I'm also concerned about, I
5 know because I have been doing a little bit of talking
6 on the side with people in this area, although I now
7 have been assured that you have been in contact with
8 HRS, I also had contacts with some people in HRS who
9 were unaware of their part in this thing. And further,
10 very forcefully told me that they were implementing in
11 the new restructuring and downsizing of that agency
12 that any new responsibilities they were going to get
13 had to be revenue neutral. They were not going to take
14 on any more responsibilities from anybody, much less
15 the Public Service Commission, where we wouldn't be
16 submitting monies for them to implement it. So, I
17 mean, I think what it does do is -- yes, I commend you
18 for going to them, because they are kind of a neutral,
19 and they will more definitively define the target
20 group. But, boy, if you're relying on the system that
21 the President of the United States, and the Governor of
22 Florida, and everybody is trying to overhaul as our
23 judgment criteria for who qualifies, I have to tell you
24 philosophically that frightens me. And I know
25 personally of a lot of abuses of the system. And I

1 wonder if we are going to create another one.

2 MR. LACHER: From a practical standpoint, what we
3 have identified, if you will, Commissioner Clark's
4 concern, is the guard rail on that slippery slope. The
5 rationale becomes those defined social service support
6 that have been identified and approved by the state
7 legislature as public policy. You're quite right that
8 there is the potential for abuse in all of the various
9 welfare issues. And we have spent a lot of time
10 working with everyone from senior analysts to
11 representatives of the Secretary's Office to develop a
12 program where the last big hurdle we had to overcome
13 was confidentiality right, was the recipient willing to
14 release the information to us. And, in effect, if
15 someone for privacy reasons chooses not to be willing
16 to release the information to us that they are a
17 recipient of food stamps, then they will be ineligible
18 for the program, because we couldn't confirm that they
19 are, in fact, a recipient.

20 COMMISSIONER LAUREDO: By the way, I'm glad we are
21 having this exchange, because the level of detail and
22 preparation you have done in this area, I was not aware
23 of it as of one o'clock this afternoon when we started
24 this, from all that I have read and everything else,
25 and it had concerned me because I had talked to some

1 people.

2 MR. LACHER: From an operations standpoint, we
3 worked very closely with the HRS office to even have
4 scheduled implementation dates when they would be ready
5 to implement it. So I'm comfortable from the
6 operations standpoint. The issue becomes a policy
7 decision for the Commission to make.

8 COMMISSIONER LAUREDO: Mr. Chairman, is there --

9 CHAIRMAN DEASON: Let me make one comment. I
10 think you just kind of hit on the head it's a policy
11 decision. If we can get over the hurdle as to whether
12 it's legal or not, then it becomes a policy question as
13 to whether we want to approve it. And I think we need
14 to keep in mind that this is a provision in a
15 stipulation, and the only authority we have at this
16 point is to either vote the stipulation up or to vote
17 it down. And if we have severe problems with the
18 policy question of Lifeline, to be very frank, we are
19 going to have to ask ourselves if we generally agree
20 with the stipulation is Lifeline in and of itself a
21 reason to deny the stipulation. And it does become a
22 policy question. If we can jump the hurdle on
23 legality.

24 COMMISSIONER LAUREDO: And I was going to get to
25 the big old Golden Gate bridge eventually, I mean,

1 that's a big problem here. Or I was going to suggest a
2 compromise. Obviously all stipulations can be amended
3 by the consent of the parties.

4 MR. BELL: Commissioner, could I return to the
5 slippery slope once again very briefly. And the only
6 additional comment I really have to offer on that is
7 that I think really it is a straw man. I don't think
8 the slippery slope is out there waiting for anybody to
9 go down. I don't think that people are going to be
10 coming to the Commission routinely asking for changes
11 in rates, differences in rates that are arguably
12 discriminatory. I have thoroughly researched the
13 history of these statutes, and discrimination issues
14 arise in the context particularly of residential
15 service almost not at all. Very infrequently. And
16 when they do arise, it's almost usually on a peripheral
17 basis that the Commission would cite to the
18 discrimination provisions as an example of its
19 obligation to establish just and reasonable rates. It
20 just simply does not occur.

21 Second, this is a program that was initiated by
22 the federal government. And perhaps at some point in
23 time, the federal government will see fit to initiate
24 some similar program and the Commission will be faced
25 with a similar kind of decision. But I really just

1 don't see this occurring on any kind of a routine
2 basis. I think it is worthwhile, and that certainly
3 these are important questions that have to be raised
4 and discussed, but as a practical matter, I just don't
5 believe that it will occur.

6 MR. HATCH: Commissioners, may I add something to
7 what Mr. Bell has commented on? When he is talking
8 about the history of these provisions, one of the few
9 places -- and Mr. Bell led me this to me, actually. I
10 can't even credit my own research, Order 13647, issued
11 August 31st of 1984, talking about the investigation
12 into the desirability of statewide uniform coin
13 telephone charges. The Commission recites the
14 provision in 364.08, that says you shouldn't extend to
15 one person what you don't extend to all similarly
16 situated persons. Here is what it says, "We conclude
17 that this section of the law requires us to have
18 uniform rates within a class of service. Whereas,
19 previously in the service areas of some telephone
20 companies there were differing rates for coin service
21 based on location, lower rates for public elementary
22 schools, nursing homes, city, county, and VA hospitals,
23 government subsidized low income housing projects, or
24 higher rates for hotels, motels, and convention
25 centers, we conclude that such pricing is incorrect."

1 That is the whole point here. These are the people
2 that have been cleaned up and out of this because of
3 the discrimination problems. And it's basically been
4 stable since then, as far as I know. But to the extent
5 that you're going to talk about a slippery slope,
6 that's where it was, and it got cleaned up. And that's
7 where you're going to go back to.

8 COMMISSIONER KIESLING: Mr. Chairman, I don't want
9 to interrupt, but I have questions on other areas. And
10 if we are done with this one, at least in terms of
11 questions, I would like to --

12 COMMISSIONER CLARK: I have a question. One final
13 question to ask on this subject.

14 COMMISSIONER KIESLING: I'm not trying to cut
15 anything off.

16 COMMISSIONER CLARK: If with respect to this issue
17 we conclude that it is illegal to do that, does that
18 mean the stipulation is over with? If we make that
19 conclusion, then we have no stipulation.

20 MR. SHREVE: At this point, without further
21 agreement of all of the parties, yes, it would be over.
22 What I would like to suggest if this is possible,
23 perhaps we don't have a problem. If you were to vote
24 on this issue alone at this point, since it appears to
25 be the only problem we have, if you, in fact, do feel

1 that, vote it up or down at this point so we know
2 whether we have a problem. If it doesn't fail, maybe
3 we don't have a problem.

4 COMMISSIONER LAUREDO: Let me just -- at least
5 where I'm coming from, Mr. Shreve, I'm trying to do the
6 right thing, and whether I'm on the minority, as I
7 probably will be or not. And, you know, like I said at
8 the beginning, when I first got here I was very
9 impressed by the legitimate people who need the
10 service, but then I have also been tempered by those
11 who will use it as an opportunity to abuse, but we can
12 talk about that forever and a day. Is there a
13 possibility that we can look at this, or the
14 stipulation itself is already kind of a time definite
15 project that we can look at it in a year or two years
16 so we can get some data and feedback rather than trying
17 to prejudge it now.

18 MR. SHREVE: Well, I guess what I would have to
19 say at this point, we have a stipulation before you. I
20 don't know what everybody else would feel about it,
21 whether there can be an agreement reached or not. I
22 would not be able to say I will consider or not
23 consider anything different in the stipulation we have
24 in front of you.

25 COMMISSIONER LAUREDO: But in the stipulation, in

1 the four corners of the stipulation there is no
2 flexibility for us to say, let's say in two years from
3 now, and without saying anything in the order, we will
4 look at Lifeline as a project so that we can now -- by
5 then we would have some data to compare to California
6 and other places, yes, it is working, no, it's not
7 working.

8 MR. BELL: Commissioner, in all honesty, I think
9 there is something like 38 states now, the vast
10 majority of states have implemented Lifeline.

11 CHAIRMAN DEASON: Commissioner, I think that if we
12 are inclined to approve the stipulation and include
13 Lifeline in that, that can be done. And in addition to
14 that, or maybe even separately we can direct Staff to
15 get information for the education of the Commission as
16 to what has been the take rate, what has been the
17 penetration in the target group. All of that would be
18 factual information we could have, we could utilize it
19 anyway that we see fit. This stipulation is only for a
20 specified period of time. You perhaps could even look
21 at the Lifeline as an experiment, if you want to call
22 it that. We would be complying with the stipulation,
23 and implementing it for a four-year period, and after
24 the conclusion of that, we could look at some verified
25 information and make a decision if it is good public

1 policy or not.

2 COMMISSIONER LAUREDO: Okay.

3 MR. SHREVE: I think that's a good point, and the
4 reason I wanted to vote on this is because there might
5 be a situation that you would like to vote on this and
6 not have that vote necessarily carry over to the entire
7 agreement, but we could still have the agreement. But
8 I think that's a good idea.

9 COMMISSIONER LAUREDO: Mr. Shreve, we are moving
10 in the right direction.

11 MR. SHREVE: I think that's good.

12 CHAIRMAN DEASON: Commissioner Kiesling.

13 COMMISSIONER KIESLING: I have some questions for
14 the parties about the Staff analyses on the fact that
15 in various places in this settlement agreement,
16 stipulation it appears to either confer or preclude the
17 Commission from carrying out its duties in other
18 regards. Such as -- well, it was all through here,
19 various issues on that. And I'm sure you know the ones
20 I'm talking about. And Staff's final conclusion on
21 that was that any provisions that are simply
22 unenforceable against the Commission are, therefore,
23 void ab initio, and that the parties cannot be bound
24 prospectively, if that's a determination that is made
25 at a later time. That concerned me, and I wanted to

1 hear from the parties on what their reaction is to
2 those various problems, and what it is that you're
3 agreeing to be bound to.

4 MR. LACHER: Certainly, Commissioner. Let me
5 start by trying to answer the question. I, for one,
6 would not attempt to bind any commission from taking an
7 action that it believes is appropriate in its
8 responsibility under the law. However, I believe in
9 constructing the package the parties have to have
10 reasonable expectation that the rules of the game upon
11 which we operate would hold consistent. I talked about
12 the accounting methodologies, for example, and if there
13 were a change in allowances or disallowances it would,
14 in effect, double dip the company by reducing revenue
15 requirements for an item that wasn't considered here.
16 On the other hand, if this Commission, for example,
17 were to reverse its policy on charitable contributions
18 and allow it to be a legitimate business deduction,
19 then had that been known the Office of Public Counsel
20 might have insisted on a lower sharing point, or a
21 greater rate reduction for some other item. And I
22 don't think it should be an issue of concern. In past
23 negotiated settlements, I'm told, in other cases the
24 Commission has agreed even to different rates of return
25 over the life of an agreement. So if an issue arose

1 that the Commission felt strongly enough that it
2 thought it should change, this Commission or a
3 subsequent Commission, it would have the authority to
4 propose that change. And I would reasonably expect the
5 Office of Public Counsel and I would vigorously argue
6 against it, but if the Commission chose to make that
7 decision, it would have the effect of abrogating the
8 agreement, and we would then move back into the
9 regulatory process. But I don't believe there is an
10 intent to restrict in any fashion the Commission's
11 responsibility or legal authority. I'm not sure I
12 explained that in the proper legal terms, but --

13 COMMISSIONER LAUREDO: No, don't do that.

14 MR. SHREVE: Commissioner Kiesling, I'm glad you
15 asked that because I have discussed it with several of
16 the parties, and frankly we didn't know exactly what
17 the concern was. Whenever you settle a case, you have
18 to settle the case and the parties have to know where
19 it is they are going without anyone being able to come
20 in a little later and change the rate cuts, or the
21 return on equity, the sharing, and that type of thing.
22 So I don't know exactly what the concern is. We did
23 not -- of course, we could not interfere with your
24 legal duties. But you have the last say on this. If
25 you approve it, then you, yourself, are taking the

1 action and saying that you're in agreement with it, and
2 willing to really abide by the stipulation. So if
3 there is a specific point that we may have missed, I
4 would welcome the opportunity to know what it is. I've
5 had I don't know how many different stipulations, and
6 frankly, once the Commission approves it, I would
7 expect that stipulation to go forward with the terms
8 that we have. And we have never really had a problem
9 that I can recall, and we had our first stipulation
10 with Southern Bell in 1980. And luckily got about \$42
11 million back on a true-up. So, I don't know exactly
12 what the concern is.

13 COMMISSIONER KIESLING: I can give you an example.
14 At Page 16 of the Staff's analyses regarding future
15 rate reductions process, Staff has concluded that the
16 stipulation requires the Commission to conduct hearings
17 regardless of whether a hearing is required. I'm sure
18 you have read this, I don't need to read it to you.
19 That's one of the areas.

20 MR. ANTHONY: Commissioner, if I could just
21 address that briefly. Hank Anthony for Southern Bell.
22 That was drafted in the way it was on the assumption
23 that there might be somebody who might not agree
24 entirely with what Southern Bell would propose as a
25 rate reduction. It certainly is not meant to bind the

1 Commission to hold hearings that are unnecessary. So
2 to the extent that all the parties were in agreement
3 there would be no need to hold hearings. It was a way
4 to address any concerns that people would not be given
5 due process rather than to impose hearings on the
6 Commission.

7 MR. SHREVE: Commissioner, that's exactly right.
8 We had provided the entire amount of money in the rate
9 reduction, so I don't think we were really looking at
10 overall future rate reductions, but how you, yourself
11 -- I mean, that was actually giving you authority over
12 the monies that we had negotiated.

13 COMMISSIONER LAUREDO: And it's also a short
14 answer also that what you were trying to achieve in the
15 drafting was an enforceability of the agreement and not
16 in any way intended to limit our legal authority as
17 derived from the legislature.

18 MR. SHREVE: Absolutely not. And this part right
19 here was actually to convey by the stipulation the
20 authority for you to dispose of the money. And the
21 implementation agreement now, of course, has done away
22 with the necessity of the hearings if you decide to
23 approve the implementation agreement.

24 COMMISSIONER CLARK: Let me state it the way I'm
25 viewing it and then have you comment on it. My concern

1 with seeing that language in there is that if we see
2 some sort of sea change in the way telephone service is
3 provided, and we conclude that even those these rates
4 were established by an agreement, there is nonetheless
5 a violation of the statute in the sense that they are
6 not fair, just, and reasonable. I mean, that's the
7 overriding concern is that they be fair, just, and
8 reasonable rates. And we conclude because of some
9 precipitous change of large magnitude that in all
10 honesty we cannot fairly say that the rates remain
11 fair, just, and reasonable. And if you will recall
12 back when we had a short hearing on the cost of equity,
13 as part of this rate stabilization docket, my concern,
14 and I think Commissioner Deason's concern, was that you
15 had had such a large drop in the cost of capital that
16 we could no longer say that what was negotiated in the
17 settlement met the statutory requirements. And I'm
18 just concerned that we are not precluding us from
19 looking at it if we believe it's so far out of whack
20 that it does not meet the requirements of the statute.
21 And if you recall, that was the argument you all made
22 with respect to --

23 MR. SHREVE: Yes, as a matter of fact -- are you
24 talking about during the five years that you could have
25 gone in during that period of time and changed it? Of

1 course elected not to.

2 COMMISSIONER CLARK: That's right.

3 MR. SHREVE: I mean, you took it from three to
4 five.

5 COMMISSIONER CLARK: And you took care of that, I
6 think, in the sense that you said in two years we are
7 going to look at economic conditions. So that sort of
8 addressed what happened in the other case. But I'm
9 just asking you if that sort of change of such a
10 magnitude occurs, that we can no longer feel that we
11 are complying with our --

12 MR. LACHER: Commissioner, I would say that if
13 there was such a dramatic sea change that you didn't
14 believe that it was in compliance with the law, you
15 could move and it would have the effect of voiding the
16 agreement. And then we would all be back in the
17 hearing process. But that would be the effect. It
18 wouldn't be a case of just changing components of the
19 agreement.

20 COMMISSIONER LAUREDO: But there is one point I
21 don't want to miss, because one of the so-called seven
22 points that you all worked on to derive this thing is
23 stability and predictability. And you have got to --
24 they have made a very courageous step, and we have got
25 to match it by saying we are going to give you a

1 framework, and not second guess the Public Counsel or
2 anybody else that you can work within this time frame
3 that you negotiated. Because, I mean, you know, if we
4 are going to be going in there every six months then
5 let's just forget about it, and let's go back to --

6 MR. LACHER: That's exactly right, Commissioner.
7 It would have to be a monumentous sea change.

8 COMMISSIONER LAUREDO: And that was a philosophy
9 that I hold very dear, and I remember Mr. Shreve
10 clearly pointed out that we used that to argue against
11 a revision of the incentive plan literally the day
12 after I got sworn in. Because I think that is the kind
13 of environment that we need to move in in this
14 regulatory world we are moving in. That is people
15 working together and the trade-off. There are a lot of
16 trade-offs in stipulations, but one of them is
17 predictability so that business can plan, can invest,
18 et cetera, et cetera. So if there is any question
19 about that, I think -- I fall very strongly on that
20 principle of predictability.

21 COMMISSIONER KIESLING: If there were any other
22 questions on that area, I didn't want to move to
23 another until --

24 CHAIRMAN DEASON: Any other questions?

25 COMMISSIONER CLARK: On that area, I'm done, too.

1 COMMISSIONER KIESLING: Okay. My next area of
2 questions relates to the provision regarding the
3 statewide prosecutor. And, quite frankly, I can see
4 three different ways to interpret what you meant in
5 that provision. And I would like to understand what
6 you all intended by that so that I can figure out if it
7 really says that.

8 MR. LACHER: I'll try it, Commissioner Kiesling.

9 MR. SHREVE: If there is any confusion there, it
10 was Mr. Anthony.

11 MR. LACHER: That provision deals with -- there
12 are two different agreements, and it gets confusing.
13 There is the agreement between Southern Bell and the
14 statewide prosecutor, and obviously that agreement
15 needs to stand on its own based between the provisions
16 we have signed with the Office of Statewide Prosecutor
17 and ourselves. But if in accordance with that
18 agreement, the statewide prosecutor notifies us that
19 she believes that we are in violation of that
20 agreement, that would be grounds for the Office of
21 Public Counsel to come in and amend this stipulation.
22 And then we could argue back and forth whether there
23 was sufficient grounds to amend it or not. But our
24 agreement with the statewide prosecutor just stands.
25 It's just a safety precaution, if you will, in the

1 event there was some future abuse that caused the
2 statewide prosecutor to be upset. Public Counsel would
3 have a right to void this agreement, or to recommend it
4 change in the sharing points.

5 MR. SHREVE: In just the sharing point and the
6 cap.

7 MR. LACHER: In just the sharing points and the
8 cap.

9 CHAIRMAN DEASON: And if that scenario were to
10 come to pass, then it would be left to the Commission
11 and our discretion as to whether to change those
12 sharing points?

13 MR. LACHER: Absolutely.

14 MR. SHREVE: Absolutely, it's your discretion.

15 MR. LACHER: Then it would be your discretion
16 whether there was sufficient grounds to change the
17 sharing points and the after sharing cap.

18 MR. SHREVE: If there is a violation of the
19 agreement with the statewide prosecutor, then we have
20 the opportunity to come in and say penalize them. And
21 that's the whole thing.

22 COMMISSIONER KIESLING: Maybe you can explain to
23 me, then, what it means where it says on the bottom of
24 Page 11 of the settlement agreement, "Southern Bell
25 reserves the right to request a hearing before the FPSC

1 to determine whether or not any criminal conduct has
2 occurred, and if so, whether or not any change in the
3 sharing and after sharing cap points is warranted," et
4 cetera. Are you asking us to hold a hearing to decide
5 if criminal conduct has occurred?

6 MR. ANTHONY: No. That's not the intent of the
7 agreement. The intent is that if the statewide
8 prosecutor were to file an information or indictment,
9 that gives the Office of Public Counsel the right to
10 come in and again petition for a reduction in the
11 sharing and after sharing cap points. It would give
12 Southern Bell the opportunity to defend itself, to
13 argue that whatever has been alleged hasn't occurred,
14 and that no changes should occur. But, it doesn't
15 require you to hold a criminal hearing, as such.

16 COMMISSIONER KIESLING: Well, if the statewide
17 prosecutor decides to file an information, and then
18 subject to however that information is resolved there
19 is ultimately a determination that criminal conduct
20 occurred, then are you still saying that you would want
21 us to hold a hearing?

22 MR. LACHER: The purpose wouldn't be to determine
23 whether criminal conduct occurred. The purpose would
24 be to determine whether there should be a change in the
25 sharing points and after sharing cap, just as in the

1 other one. And what this does is gives the Office of
2 Public Counsel the ability to move with the motion by
3 the Attorney General's Office, as opposed to working
4 through the court with the judicial process.

5 MR. ANTHONY: I was going to add that it's not
6 contingent upon a finding by the criminal court
7 process.

8 COMMISSIONER KIESLING: I still can't figure out
9 what this sentence means where it says, "Southern Bell
10 reserves the right to request a hearing before FPSC to
11 determine whether or not any criminal conduct has
12 occurred."

13 MR. LACHER: The intent of that paragraph is if
14 criminal conduct is alleged, and the Office of Public
15 Counsel came in and proposed some drop in the sharing
16 points. We would have the right to request a hearing
17 to argue whether, in fact, there has been the kind of
18 conduct that should cause a drop in the rates.

19 COMMISSIONER CLARK: I think all Commissioner
20 Kiesling is saying is you're saying what we should look
21 at is whether or not whatever allegations or finding
22 has been made by the statewide prosecutor demands some
23 reaction on our part. But what Mr. Kiesling (sic) is
24 saying is that what that language appears to say is we
25 will also decide as to whether or not there has been

1 criminal conduct, and we are without authority to do
2 that.

3 MR. LACHER: No, that's not the intent. And it
4 may just be --

5 MR. ANTHONY: Commissioner Clark, in all due
6 deference to Mr. Lacher, I think when the language was
7 drafted there was an intent that it's not just the fact
8 that there has been an indictment or an information
9 that has been filed, and that in and of itself would
10 just allow us to fight over whether or not given the
11 fact that that has occurred that there should be a
12 reduction in those points. It also gives us the
13 opportunity to defend ourselves against those
14 allegations before this body. Now, does that mean that
15 you impose all the criminal procedural aspects, no, I
16 don't think so. I think its simply a factual issue as
17 to whether or not that type of conduct has occurred or
18 not.

19 COMMISSIONER KIESLING: Well, let me kind of take
20 it from here. If there is an information or an
21 indictment, there ultimately will be some resolution in
22 that criminal case.

23 MR. ANTHONY: Yes, ma'am.

24 COMMISSIONER KIESLING: If that resolution is that
25 criminal conduct has occurred, are you then saying when

1 you come to us that that determination in a criminal
2 setting will not be prima facie, you know, evidence
3 that criminal conduct, in fact, occurred? Or are you
4 saying that if there is a court determination that
5 criminal conduct occurred, then the Commission will
6 just accept that?

7 MR. ANTHONY: No, I don't think the intent is that
8 the Commission will accept it. Obviously, the
9 Commission can consider the evidence that is presented
10 before it. I'm sure that Public Counsel would
11 introduce that evidence to you and you could consider
12 that as part of your deliberations on the matter. But
13 Southern Bell would still have the right to argue that
14 misconduct had not occurred or was not criminal.

15 COMMISSIONER KIESLING: Even if there had already
16 been a criminal court determination otherwise?

17 MR. ANTHONY: It's not meant to be res judicata on
18 Southern Bell.

19 MR. LACHER: It would be a more difficult argument
20 to make, though.

21 COMMISSIONER KIESLING: It's hard to control your
22 client sometimes, isn't it?

23 MR. ANTHONY: And that's why he doesn't appear
24 very often.

25 MR. SHREVE: Mr. Anthony also has control over his

1 button down there.

2 MR. LACHER: I rarely get to talk.

3 MR. SHREVE: Commissioner, I think you've got the
4 feel of this. Now, basically, it could be used as
5 evidence and might very well be, as far as you are
6 concerned, determining what it is. However, they would
7 still have the opportunity, since you would be the ones
8 to really impose a civil penalty because of the moving
9 of the sharing or the cap, would really change the
10 money that's going to be changing hands in the future,
11 they would still have the opportunity to argue before
12 you that they had not had any criminal conduct.
13 However, if I have a guilty plea, judgment, or
14 whatever, that I would look to put in front you, I
15 think it would be tough for them to overcome. We might
16 even if there was a not guilty verdict, they would
17 probably bring that in, and I might still be saying,
18 "Look, to me there was criminal conduct that occurred,
19 and you should change the sharing plan." If you notice
20 later there is also the ability of our office to come
21 in, and that covers the entire four-year period. And
22 we did go over this with the statewide prosecutor at
23 length in making sure we had the language in there that
24 was needed. But we have an overlay there of the four
25 years that if something is brought to our attention

1 after the two years has expired of the statewide
2 prosecuting agreement, we can still come in and ask you
3 to change the sharing points. And the sharing points
4 are important, because when you get from the 12 --
5 let's say in '94, the 12 to 14 percent, Southern Bell
6 will have had to refund a little over \$100 million to
7 the customers before they can get to their 14.

8 COMMISSIONER KIESLING: Let me just ask you one
9 more thing on this provision, and then I will turn you
10 over to my colleagues.

11 MR. SHREVE: I think it's great that we are
12 getting the questions, frankly, because we don't really
13 know what has been discussed and where your questions
14 might be.

15 COMMISSIONER KIESLING: Well, I haven't discussed
16 anything with the Commissioners, but I have with the
17 Staff.

18 MR. SHREVE: Right.

19 COMMISSIONER KIESLING: My other question is is
20 anything in this paragraph intended to preclude a
21 reduction or a change in the sharing, and the after
22 sharing cap points if misconduct, as I would use that
23 term, is shown, but that misconduct does not rise to
24 the level of criminal conduct?

25 MR. SHREVE: I think we have corporate misconduct,

1 and I do not believe, in my opinion, that has to rise
2 to the level of being criminal misconduct from the
3 four-year overlay part where we would come to you. I
4 hope I have answered your question. I don't think it
5 has to rise to the level of criminal conduct.

6 COMMISSIONER KIESLING: So this does not preclude
7 the Office of Public Counsel from coming to us and
8 saying reduce this because of misconduct, even if that
9 misconduct did not rise to the level of criminal
10 conduct?

11 MR. LACHER: That's correct, Commissioner
12 Kiesling, and I believe it's about Line 10 or 11 on
13 Page 12.

14 COMMISSIONER LAUREDO: All it does is trigger a
15 hearing, and then we look at the merits.

16 MR. LACHER: Oh, it's up to you.

17 COMMISSIONER LAUREDO: I just want to state the
18 obvious. Sometimes it's gets lost in the --

19 MR. LACHER: Absolutely.

20 COMMISSIONER KIESLING: Thank you.

21 MR. SHREVE: Thank you, Commissioner.

22 COMMISSIONER CLARK: I just want to ask a question
23 with respect to inside wire. This may be a situation
24 where we hung ourselves by putting it into this docket,
25 but is it the intention of the parties that because it

1 was an issue, notwithstanding the fact that the
2 Commission may through a rulemaking docket decide that
3 inside wire should be treated differently, and, in
4 fact, the revenues from inside wire should be imputed
5 -- should be counted above-the-line, as I understand
6 this recommendation, that could not be done with
7 respect to Southern Bell, it could be done for the
8 other telephone companies.

9 MR. ANTHONY: Commissioner Clark, this is going to
10 be -- the world is upside down as it is, so its going
11 to be upside down a little bit more now. Southern Bell
12 has always maintained that inside wire, I think based
13 on one of your rulings, that inside wire is not a part
14 of this rate case. There was an issue about what if
15 you do something about inside wire in a separate
16 proceeding how would you treat it, but from Southern
17 Bell's perspective, that does not make it a part of
18 this rate case. And so if in the rulemaking you did
19 something, Southern Bell would not object to your
20 attributing that money to Southern Bell above-the-line.
21 That's a risk that we would be willing to accept.

22 COMMISSIONER CLARK: Okay.

23 CHAIRMAN DEASON: Is that right, Mr. Lacher?

24 MR. LACHER: I generally agree with my attorney,
25 and this time I do.

1 CHAIRMAN DEASON: Just checking.

2 COMMISSIONER CLARK: Another thing Staff pointed
3 out was it's unclear whether the stipulation is
4 intended to preclude the Commission from revising
5 Southern Bell's current depreciation rates.

6 MR. ANTHONY: There is no intent to preclude that.

7 COMMISSIONER CLARK: So, if we revised the
8 depreciation rates, and there is more of an expense or
9 less of an expense for depreciation purposes, that goes
10 into the equation?

11 MR. ANTHONY: Yes, ma'am.

12 MR. SHREVE: And we would all be in fighting over
13 that, and you would make the final decision and the
14 impact would be primarily on the sharing of the cap.

15 MR. ANTHONY: It would effect the earnings because
16 of expenses.

17 COMMISSIONER JOHNSON: Staff also raised the issue
18 that the stipulation is silent with respect to an
19 authorized floor on the ROE.

20 MR. ANTHONY: That's correct.

21 COMMISSIONER JOHNSON: Any comments on that?

22 MR. ANTHONY: That's a risk that Southern Bell is
23 willing to take under the agreement.

24 MR. SHREVE: The floor would probably only serve
25 the purpose of giving Southern Bell the opportunity to

1 come in and ask for an interim rate increase, and we
2 are certainly willing to not have them have that
3 opportunity.

4 COMMISSIONER JOHNSON: What about the 1992
5 earnings, is that going to be addressed in a separate
6 proceeding, or how should that be --

7 MR. ANTHONY: That was not addressed by this
8 stipulation, so that would still be a question for this
9 Commission to resolve whenever it was ripe.

10 CHAIRMAN DEASON: Also, another matter that has to
11 be addressed is the resolution of the question of
12 calling for Dade and Broward Counties. And the
13 stipulation sets aside a sum of money which can be
14 utilized to address that situation. The Commission has
15 discretion as to how that situation will be rectified,
16 if at all, and how that 11 million is to be utilized.
17 And if not all of that 11 million is needed it can be
18 utilized in a different manner, is that correct?

19 MR. SHREVE: That's correct. And if you need to
20 utilize more than the 11 million, there is also a
21 provision in there that it will be coming out of the
22 pot. So it's your choice, and we feel that you're not
23 restricted in your decision at all there by the
24 revenues.

25 MR. LACHER: The 11 million was derived at in that

1 that was the cost of the plan that was initially
2 approved.

3 MR. ANTHONY: And nothing is meant to preclude any
4 party from -- as I think Ms. Kaufman mentioned, any
5 party can participate in that to suggest to you how
6 toll relief in those routes should be provided. So it
7 would be just another matter with money set aside to
8 resolve it.

9 CHAIRMAN DEASON: Now, is there any restriction on
10 the Commission as far as time is concerned? Can we
11 move on that just as expeditiously as we want to try to
12 get that problem rectified?

13 MR. ANTHONY: Yes, sir.

14 MR. LACHER: That's correct. From a practical
15 standpoint, if the plan that had initially been voted
16 had carried forward, we couldn't get it implemented
17 before January 1 of '95, which is why the money was set
18 for that point.

19 MR. HATCH: Staff would have one additional
20 question if there is a quick break here. Accounting
21 for software was an issue that's raised in the rate
22 case, and very similar to the way inside wire was. Is
23 software a resolved issue for purposes of this, or is
24 it still an open question like inside wire? It's just
25 a question. We don't want to step into hot water and

1 try and do something that --

2 MR. LACHER: It's resolved in the stipulation.

3 COMMISSIONER CLARK: So it would not be treated
4 the way inside wire is? As far as you are concerned --
5 okay. EAS, future EAS, they will just be treated in
6 the same way. If we order you to implement them and
7 order just regrouping or something less than full
8 recovery of what you would get on the toll routes, that
9 likewise gets figured into the equation of your
10 earnings in the same way it would absent a stipulation?

11 MR. ANTHONY: There would be the monies that are
12 set aside for each of the years from which the monies
13 could be taken to address EAS pressures.

14 MR. SHREVE: That is your decision on that, to use
15 the monies as you wish.

16 COMMISSIONER CLARK: The Staff commented on the
17 commitment to increase outside plant forces by 275
18 people. How long is that -- I agree that that's a bit
19 unusual. How long is that in force for? I mean, how
20 is that going to be determined?

21 MR. LACHER: This was an interesting provision, it
22 is unusual. As Mr. Shreve knows, since I have arrived
23 I have continued to focus a lot of my personal effort
24 on addressing the outside repair issues. And, in fact,
25 we have added the 275 people as of today's hearing.

1 The intent was that we would get them by this time
2 frame, and maintain them at least through April of this
3 coming year, and then subsequent to that our force size
4 would be based on demand and need. So it's not a
5 feather bedding issue, if that's the concern.

6 COMMISSIONER CLARK: It just concerned me that
7 there is no reason to have an excess number of
8 employees if you can meet service requirements.

9 MR. LACHER: Absolutely. And we have no intention
10 of having that, but there was a concern by some parties
11 that we had intentionally cut back on our outside plant
12 forces. And it was to demonstrate that we, in fact,
13 had the commitment to staff appropriately.

14 COMMISSIONER CLARK: But beyond April '94, you
15 may, in fact, reduce your outside plant if you feel --

16 MR. LACHER: Only if I can do it and meet the
17 service requirements.

18 MR. SHREVE: And, Commissioner, were we one of the
19 -- maybe the party that said service requirements had
20 been cut way down, and we feel that the last incentive
21 program put Bell in the position of taking too large a
22 cuts to save money, and we wanted to move in the other
23 direction away from that. It's not really
24 inconsistent. And normally if you're going to have a
25 cut, we want to take advantage of that. We got the

1 rate cuts up front, while also insisting that there be
2 a return of the people there to carry out the service.
3 So that part of it is really not inconsistent, because
4 you have both things. If they were cutting, then we
5 would argue that we would want some of that money to
6 flow on back to the benefit of the customers. If they
7 were adding it, and we thought they were adding too
8 many people to it so that their expenses became too
9 high, then we, of course, would have an argument about
10 what the proportionate share of that should be. But in
11 this we got the rate cuts up front agreed to, and they
12 are not really impacted by the additional.

13 MR. LACHER: And there is a natural check and
14 balance system here. If we were to make excessive cuts
15 in our outside plant forces, the cost of the service
16 guarantee program would go up.

17 COMMISSIONER CLARK: Yes.

18 MR. LACHER: And so there is a natural balance
19 here.

20 CHAIRMAN DEASON: Further questions?

21 COMMISSIONER CLARK: I feel like it's important to
22 explore these so that later on we don't have any
23 questions. And I wanted to understand what in the
24 implementation agreement is meant by parity. Does that
25 mean the access charges will be the same as interstate?

1 MR. ANTHONY: Yes, ma'am. As of January 11th,
2 whatever interstate access rates were on January 11th,
3 1994, that's what they will be come the last rate cut
4 in 1996 in Florida.

5 MR. TYE: Commissioner Clark, the language used is
6 that parity means the average price per minute of an
7 interstate minute will be equal to the average price
8 per minute of an intrastate minute. It does not mean
9 that the structure has to be absolutely the same, but
10 that the price will be.

11 COMMISSIONER CLARK: And what happens if between
12 now and 1996 interstate access charge rates go down?

13 MR. ANTHONY: Well, in that event, the IXCs have
14 agreed that during 1994 and 1995 they won't seek
15 further reductions. But in 1996 they could seek
16 further reductions in the intrastate rates. So if that
17 happened, that would be part of that \$48 million that
18 is set aside in 1996, that they could seek further
19 access rate reductions. And that would, of course, be
20 up to you to decide whether that was appropriate or
21 not.

22 COMMISSIONER CLARK: So that if interstate access
23 charges go down, in 1996 you will only have to meet the
24 1994 rate?

25 MR. ANTHONY: That's right.

1 COMMISSIONER CLARK: Is that your understanding?

2 MR. TYE: That's what is in the agreement,
3 Commissioner Clark.

4 COMMISSIONER CLARK: And then you will have the
5 ability to argue that you should use the extra dollars
6 to at least come down to interstate and maybe even
7 further?

8 MR. TYE: That's correct. We gave the right to do
9 that with respect to the '94 dollars and the '95
10 dollars, but we have retained the right to do that with
11 respect to the pot of '96 money. I guess I need to put
12 one caveat on it. Our position, AT&T's position is
13 that access ought to be priced closer to cost.
14 Interstate parity is a benchmark, but, you know, the
15 cost is a cent a minute.

16 MR. LACHER: If I could just add an editorial
17 comment.

18 COMMISSIONER LAUREDO: Well, you know, that's the
19 problem -- excuse me for interrupting. I wish we could
20 stay within the four corners of this agreement, and not
21 -- because I know in your opening remarks, or somebody
22 else, that kind of shifted into -- I don't think this a
23 proper forum for that.

24 MR. TYE: No, I don't mean to go outside the
25 corners of the agreement, Commissioner Lauredo. I

1 mean, the agreement calls for parity with January 11th
2 interstate rates to be effective on October 1, 1996.

3 MR. LACHER: I was going to actually,
4 Commissioner, complement AT&T and the other
5 interexchange carriers in this regard, because
6 obviously there is a number of competing interests for
7 those remaining rate reductions. Commissioner Clark
8 has already commented there are some other EAS issues
9 that will surface through this period. There is some
10 interest to business customers and what not, and the
11 intent is that everyone would have an equal chance for
12 the Commission to make the policy decision on what is
13 the appropriate place for those reductions. And in
14 1996, you could deem that it should go toward solving
15 some unknown EAS issue that arises in the interim, or
16 you could deem that it should go toward access cuts, or
17 some other fashion. But we couldn't reasonably predict
18 what all the concerns would be in that time period, so
19 we said we had to set some aside that could be used at
20 your discretion for those kinds of issues.

21 COMMISSIONER LAUREDO: Mr. Chairman, if there is
22 nothing further.

23 CHAIRMAN DEASON: Further questions,
24 Commissioners?

25 COMMISSIONER LAUREDO: Mr. Chairman, it's evident

1 from the discussion today that we are not all entirely
2 comfortable with the entirety on each one of the
3 paragraphs, and I guess that reflects the parties to
4 the agreement. And we had a lot of questions. More of
5 a clarification and an expression of some concern.
6 Some of these asks for us to make some jumps that we
7 may not be willing to do in a stand-alone basis, but as
8 it was clearly highlighted, it's all part of a -- and I
9 quote Mr. Shreve, "An excellent settlement for the
10 people of Florida." And I quote Mr. Belote this
11 afternoon, "That it achieves everything that consumers
12 could ask for." And so I think with those kinds of
13 introductory presentations, that we have a very sound
14 agreement in its entirety, notwithstanding any weakness
15 in any part thereof. And I thereby move approval of
16 the agreement and the attendant implementation
17 agreement.

18 COMMISSIONER KIESLING: Second.

19 CHAIRMAN DEASON: Okay. It has been moved and
20 seconded. And just to make sure that the motion is
21 clear, that contemplates for Item Number 10 that we
22 would approve the stipulation which incorporates
23 Lifeline rates?

24 COMMISSIONER LAUREDO: Yes, exactly. I didn't
25 want to get into like AT&T said caveats, because then

1 we confuse the water. But I got a comfort level from
2 the parties that they understood my concerns, and we
3 can do some outside of the four corners of the
4 agreement that would alleviate some. So, yes. The
5 answer is yes.

6 MR. HATCH: By clarification, Commissioners, that
7 means that you have a determination that Lifeline is
8 lawful pursuant to --

9 COMMISSIONER LAUREDO: I didn't say that. Don't
10 put words into my mouth.

11 MR. HATCH: I'm not. I'm seeking clarification
12 only.

13 COMMISSIONER LAUREDO: I just moved the
14 stipulation, and I appreciate your question.

15 MR. HATCH: It's as a result of Commissioner
16 Deason's comments, as well.

17 CHAIRMAN DEASON: Well, the reason I asked that,
18 we are going to have to address 10 at some point.

19 MR. HATCH: Yes, sir. I just wanted to make sure
20 whether this is a package deal, or are you doing them
21 one at a time.

22 COMMISSIONER LAUREDO: My motion is to pass the
23 stipulation in its four corners. And I guess those
24 four corners includes the implementation agreement as
25 per counsel's advice earlier, period. And if there is

1 a challenge to any part thereof, or whatever, I'm not
2 challenging it. I'm not a lawyer to decide.

3 COMMISSIONER CLARK: How long is this stipulation,
4 when does it end?

5 MR. SHREVE: It ends at the end of 1997. There is
6 a provision if the industry changes dramatically before
7 that there is a way out of that last year. We felt
8 that we would really be reaching too far. I'm in
9 hopes, I think we are all in hopes that it will
10 continue through that point, but there is so much going
11 on right now in the telephone industry that we thought
12 we should provide that mechanism out. The rate cuts
13 still stay, though. Those don't go anywhere.

14 COMMISSIONER LAUREDO: And any federal preemption
15 prior to that date preempts us.

16 MR. LACHER: That's right.

17 CHAIRMAN DEASON: It has been moved and seconded.
18 All in favor say aye.

19 COMMISSIONER JOHNSON: Aye.

20 COMMISSIONER CLARK: Aye.

21 COMMISSIONER KIESLING: Aye.

22 COMMISSIONER LAUREDO: Aye.

23 CHAIRMAN DEASON: Aye. Any opposed. The motion
24 carries unanimously.

25 COMMISSIONER CLARK: I would just like to comment

1 with respect to Lifeline rates. I think there is
2 substantial question about its legality. And I, for
3 one, do not think it is legal given the history of it.
4 The question that I resolved in favor of it is to treat
5 this as an experimental rate. And I think perhaps we
6 can do that under the experimental statute. But I
7 would like to say I think this Commission has routinely
8 stuck to its role as an economic regulator, and we
9 serve our constituency best when we do that, and we do
10 not enter into the realm of social decisions. I think
11 that is left to other governmental entities who are
12 more closely responsive to the taxpayers of this state,
13 and to private individuals through their charitable
14 contributions. And I think we serve the ratepayers
15 best, including those least able to afford to pay for
16 telephone service, by assuring that every expense
17 incurred is prudent and reasonable. And I would note
18 that Florida, out of the ten southern states, we have
19 next to the lowest rates. And I think we have done a
20 good job, and that's the way to approach it, not to
21 decide what rates apply to different classes of people
22 according to their ability to pay.

23 CHAIRMAN DEASON: Before we conclude Item 9, I
24 would like to echo what Commissioner Lauredo prefaced
25 this entire discussion with, and that is to complement

1 all of the parties for their efforts in reaching this
2 stipulation. And also to complement our Staff for the
3 very thorough work that they have done behind the
4 scenes in preparing for this case. I think that their
5 work certainly facilitated the parties coming to the
6 negotiating table in good faith and reaching the
7 agreement that has been reached.

8 COMMISSIONER LAUREDO: And Commissioner Clark is
9 going to have a real big party tonight.

10 COMMISSIONER CLARK: Oh, yeah?

11 COMMISSIONER KIESLING: Mr. Chairman, does that
12 presume that we also, then, have granted the motion for
13 continuance?

14 CHAIRMAN DEASON: Well, we need to address Issues
15 3 and 4 on Item 9. I think we have addressed Issues 1
16 and 2 on Item 9, is that correct?

17 MR. ANTHONY: Yes, sir. My question, which I
18 think addresses Commission Kiesling's question, is
19 whether or not this is issued as a final order or PAA.

20 CHAIRMAN DEASON: And I think we asked that
21 question. I think Staff indicated that we could issue
22 this as a final order, and I think all parties are in
23 agreement that it can be issued as a final order.

24 MR. HATCH: I may be confused. If Lifeline is
25 lawful, and you have already essentially as part of

1 your vote determined that that's true, then I assume by
2 the vote approving the whole stipulation you have
3 approved Lifeline, which means it is, in fact, going
4 out as a final order. If Lifeline is not lawful, then
5 you have an open question as whether AARP is endorsing
6 this or not, and that would have to be answered in
7 conjunction with, essentially, the Lifeline, if you
8 vote it to be unlawful, or you vote that it's a bad
9 idea.

10 COMMISSIONER CLARK: I think they voted that it
11 was lawful.

12 MR. HATCH: Okay. If that's correct, then that's
13 fine. Then, essentially, that disposes of Item 10, as
14 well.

15 CHAIRMAN DEASON: And it can be issued as a final
16 order, and if anyone disputes our interpretation of the
17 statute as to the lawfulness of Lifeline, they are free
18 to appeal that to the court.

19 COMMISSIONER CLARK: I just want to say I will
20 miss seeing you every two weeks, or whatever it was,
21 but I was astounded when I heard this was settled.
22 Having gone through that process, I just didn't think
23 there was any way to settle it. And I admire you for
24 your vision, and I would like to complement your staff,
25 and our staff, and Public Counsel's staff, because I

1 don't think this settlement could have come about
2 without all parties being ready to go trial. And it
3 was obvious to me, some decisions from other places
4 notwithstanding, we were ready to go to trial. And I
5 would likewise want to say that I think this is in the
6 best interest of everyone. I think this will allow the
7 company to move ahead and meet competitive challenges
8 that I'm certain will come about, and I think the
9 public has been well protected by Public Counsel's
10 efforts.

11 COMMISSIONER KIESLING: And if I could just add
12 one thing, I also appreciate the efforts that you all
13 put in into reaching this settlement, since this would
14 have been my first hearing as a Commissioner, and I was
15 not looking forward to it being one of this magnitude.
16 So you allowed me to have a little more of a break-in
17 period before I was faced with something of this
18 magnitude.

19 COMMISSIONER LAUREDO: Well, see, they didn't give
20 me that chance when I got in. Can you arrange for some
21 more of those meetings outside of Tallahassee? I like
22 those. Come up with another company or something so we
23 can get out and have fun.

24 CHAIRMAN DEASON: Tracy, we also need to address
25 Issue 4.

1 MR. HATCH: That's correct. Staff's
2 recommendation is that there are three dockets that
3 need to remain open, even though you have voted up the
4 stipulation.

5 CHAIRMAN DEASON: The dockets that need to remain
6 open, obviously, the Broward/Dade EAS has to stay open,
7 is that correct?

8 MR. HATCH: Yes. The repair docket, which is
9 910163, and also the rate case docket, which is 920260.
10 There are some various clean up measures that have to
11 be done in 260 that flow directly out of the
12 stipulation itself. There is also the pending NARUC
13 appeal which has to be resolved. 163, there are three
14 pending cases on appeal there, and we would await the
15 resolution of those cases.

16 COMMISSIONER KIESLING: It was my understanding
17 that the stipulation by its terms told us which dockets
18 they wanted us to close, but that that is one of those
19 provisions that is totally within our discretion. And
20 that your stipulation is not going to bind us, or the
21 stipulation is not going to fall apart if we make a
22 determination that we need to leave these dockets open
23 to deal with the issues which we have identified?

24 MR. ANTHONY: That's correct. It's Dade/Broward,
25 which is contemplated to stay open, 260, which was

1 under the agreement contemplated to stay open, and
2 there still has to be a resolution one way or the other
3 of the appeals.

4 COMMISSIONER LAUREDO: But the dockets that are in
5 the four corners of the document will be closed as per
6 the agreement.

7 COMMISSIONER KIESLING: No.

8 COMMISSIONER LAUREDO: Well, then I guess I had
9 better go back to law school. I don't understand.

10 CHAIRMAN DEASON: Staff's recommendation is to
11 close two dockets. That would be the action we would
12 be taking by approving Issue 4.

13 MR. HATCH: Yes.

14 CHAIRMAN DEASON: Now, is that contrary to the
15 stipulation?

16 MR. HATCH: Only in the sense that you would leave
17 163 open. That's the only hitch, if you want to call
18 it that. Now, to allay any fears, the issues in those
19 dockets are resolved by the stipulation, so by keeping
20 the docket open you can't sneak back in and do
21 something with them. But, for example, the pending
22 appeals in the 163 docket, we would await that. And
23 that information may yet be relevant to the fix-it
24 workshops that are coming pursuant to the stipulation,
25 as well.

1 CHAIRMAN DEASON: Is that understood, Mr. Anthony?

2 MR. ANTHONY: Yes, sir. As long as 163 is kept
3 open only for purposes of the resolution of the
4 appeals, and we have no objection to that.

5 COMMISSIONER CLARK: We have disposed of some of
6 the money, but we haven't disposed of all of it. When
7 are you going to file something suggesting the
8 disposition of the remaining funds?

9 MR. ANTHONY: Under the agreement it will be 120
10 days prior to July 1st, so we have a very short time
11 frame within which to do that. It would be March 1st.

12 CHAIRMAN DEASON: Do I have a motion, then, to
13 approve Staff on Issue 4?

14 COMMISSIONER KIESLING: You have a motion.

15 CHAIRMAN DEASON: Without objection, Issue 4 is
16 approved. I think we have already discussed Item 10,
17 and that has been disposed of by approving the
18 stipulation, is that correct, Tracy?

19 MR. HATCH: That's correct.

20 CHAIRMAN DEASON: We are going to take ten and
21 come back and address Item 11.

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CERTIFICATE OF REPORTER

STATE OF FLORIDA:
COUNTY OF LEON:

I, JANE FAUROT, Court Reporter and Notary Public
in and for the State of Florida at Large:

DO HEREBY CERTIFY that the foregoing proceeding
was taken before me at the time and place therein
designated; that my shorthand notes were thereafter
transcribed, via computer, under my supervision, and the
foregoing pages numbered 1 through 121, are a true and
correct record of the aforesaid proceedings.

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

WITNESS MY HAND AND SEAL this, the 25th day of
January, A.D., 1994, IN THE CITY OF TALLAHASSEE, COUNTY OF
LEON, STATE OF FLORIDA.

COPY

JANE FAUROT, COURT REPORTER
310 East College Avenue
Tallahassee, Florida 32301
(904) 222-5508

My Commission Expires July 16, 1997

CERTIFICATE OF NOTARY

STATE OF FLORIDA:

COUNTY OF LEON:

I, DEBBIE L. HERZOG, Notary Public in and for
the State of Florida at Large:

DO HEREBY CERTIFY that the foregoing deposition
/hearing/trial was submitted to me by JANE FAUROT as a
true and accurate transcript, numbered from pages 1 to
122, reported by this court reporter at the time and
place therein designated; and that before testimony was
taken, the witness was duly sworn.

I FURTHER CERTIFY that I am not a relative,
employee, attorney, or counsel of any of the parties in
this litigation, nor interested in the financial outcome
of such litigation.

Sworn to and subscribed before me this 25 day
of January, 1994, by JANE FAUROT, who is personally known
to me.

COPY

DEBBIE L. HERZOG, NOTARY PUBLIC
310 East College Avenue
Tallahassee, Florida 32301

My Commission Expires: April 23, 1995