

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of
Proposed Rule 25-24.845,
F.A.C., Customer Relations;
Rules Incorporated, and
Proposed Amendments to Rules
25-4.003, F.A.C., Definitions,
25-4.110, F.A.C., Customer
Billing; 25-4.118, F.A.C.,
Interexchange Carrier
Selection; and 25-24.490,
F.A.C. Customer Relations;
Rules Incorporated.

DOCKET NO. 970882-TI



PROCEEDINGS: RULE DEVELOPMENT WORKSHOP
 TALLAHASSEE

BEFORE: CHAIRMAN JULIA L. JOHNSON
 COMMISSIONER J. TERRY DEASON
 COMMISSIONER JOE GARCIA

DATE: Monday, October 20, 1997

TIME: Commenced at 6:40 p.m.
 Concluded at 8:37 p.m.

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

REPORTED BY: JOY KELLY, CSR, RPR
 Chief, Bureau of Reporting
 Official Commission Reporter

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1 **IN ATTENDANCE:**

2 **DIANA CALDWELL, FPSC Division of Appeals.**

3 **JACK SERVE and CHARLIE BECK, Office of**
4 **Public Counsel.**

5 **MICHAEL GROSS, Office of the Attorney General.**

6 **RICK MOSES, FPSC Division of Communications.**

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I N D E X

MISCELLANEOUS

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P R O C E E D I N G S

(Workshop convened at 6:40 p.m.)

CHAIRMAN JOHNSON: Ladies and gentlemen, I'm going to call the hearing to order.

Counsel, could you please read the notice?

MS. CALDWELL: Yes. Pursuant to the notices, under Section 120.54, Florida Statutes, the Florida Public Service Commission will hold a rule development workshop at this time and place to consider amendments to rules relating to customer preference for local toll and toll provider.

CHAIRMAN JOHNSON: We'll take appearances. Public Counsel.

MR. SHREVE: Jack Shreve and Charlie Beck, Office of Public Counsel, representing the Citizens of the State of Florida, Claude Pepper Building, Tallahassee, Florida.

MR. GROSS: Michael Gross, Assistant Attorney General, on behalf of the Florida Attorney General's office.

CHAIRMAN JOHNSON: I understand that there are members of the industry that are in the audience that will not be making formal appearances but are here to listen and to participate through listening to the process.

1 I did want to make one announcement, that
2 the proceeding tonight is being transmitted via the
3 Internet through the PSC's home page. I apologize for
4 our starting a little late, but we were having a few
5 technical problems and wanted to make sure that the
6 system was set up so that customers and interested
7 persons across the state could participate or at least
8 listen in to the testimony that's being presented
9 tonight via the Internet.

10 My name is Julia Johnson. I'm the
11 Chairperson for the Florida Public Service Commission,
12 and I'll be chairing this proceeding this evening. To
13 my right is Commissioner Terry Deason, and to my left
14 is Commissioner Joe Garcia.

15 We're here tonight to really hear from you;
16 Your suggestions, your concerns and your complaints as
17 it relates to slamming.

18 As many of you are aware, slamming is when a
19 company changes your service in an unauthorized manner
20 when you do not, indeed, want your service changed,
21 but through no fault or authorization of your own your
22 service is somehow changed.

23 It has been a major problem for the
24 Commission, and we have rules that are designed to
25 address the slamming problem. Certainly, despite our

1 rules, the problem continues to persist and we are now
2 in the process of revising our rules and are looking
3 at more stringent actions to take to see if we can
4 help alleviate this problem. Public Counsel and the
5 Attorney General, they are involved in this case and
6 they will be providing testimony, suggestions. They,
7 too, want to hear from you and they, too, are
8 interested in us crafting our rules in such a way that
9 we can provide the maximum protection to you.

10 Outside, if you had the opportunity or if
11 you haven't, we still have our materials set up
12 outside. But there are a couple of suggestions that
13 we have and some information on what we've done thus
14 far to date in terms of fining companies, in terms of
15 helping customers get monies back when their service
16 has been changed without their permission. And,
17 indeed, we also have -- because one of the things we
18 often hear from customers is that they don't like
19 those calls that they get from telemarketers when they
20 are at home, coming from work, sitting down for
21 dinner, so we have some brochures and some materials
22 that relate to how you can stop telemarketers from
23 calling, and that's part of the Department
24 of Agriculture's no solicitation program. And there
25 are other suggestions and ideas of how we can better

1 guard against this problem. But our main issue
2 tonight is to hear from you and to hear your issues
3 and your concerns as to how we can better address this
4 slamming problem.

5 Now, at the appropriate time I'd like for
6 you to all stand, and we'll do it as a group, and I'll
7 swear you in before you testify.

8 The reason we do that is so that your
9 testimony can be a part of the official record that we
10 can use and rely upon when we make our final
11 determination.

12 For those of you who would not like to
13 testify orally here tonight but would like to provide
14 us with some comments, we have on our special report
15 that was also available at the front table a customer
16 comment section. So if you'd just like to fill that
17 out and provide your comments to us in writing, we'll
18 also accept those.

19 Additionally, we've established through our
20 web site a process whereby you can file any complaint
21 that you might have as it relates to slamming, and if
22 you have access to a computer, through that process.

23 We, here at the Commission, are committed to
24 hearing your suggestions, responding to those and
25 assisting in any way possible.

1 So with that, I have a Staff member here who
2 will provide you with a summary of the rules that are
3 currently being proposed. I know that at our last
4 hearing we got a lot of comments on our proposed rules
5 and even ways in which we can improve upon those. So
6 I'd like to allow Staff the opportunity to present to
7 you briefly the proposed rules.

8 **MR. MOSES:** Thank you. I'm Rick Moses here
9 with the Staff of the Commission. Today consumers can
10 choose a different telephone company to provide their
11 local telephone service, their local toll service,
12 which is sometimes intraLATA service, both of which at
13 one time could only be provided by the local telephone
14 company. However, that has changed and there is
15 competition for these services, and also your long
16 distance service.

17 By being required to choose between
18 competing service providers, sometimes with very
19 little knowledge, many unsuspecting consumers are
20 vulnerable to being taken advantage of. Many
21 consumers have reported having their phone service
22 switched without their authorization. This practice
23 is called slamming, and it is the single most common
24 complaint received by the Public Service Commission
25 over the last several years.

1 The Public Service Commission has fined
2 companies, revoked operating certificates, negotiated
3 settlements and required refunds. But as competition
4 builds these actions become less efficient, and the
5 Public Service Commission is proposing to amend its
6 rules to make companies more accountable.

7 Their proposed amendments will do the
8 following for you: First, they apply to all companies
9 providing local telephone service, local toll service
10 or long distance service. It requires these companies
11 to be certificated by this Commission prior to
12 operating. It requires information to be printed on
13 the bill. That information includes the name of the
14 company, the type of service provided, and a toll free
15 service number for each provider. You may see up to
16 three providers on your bills now where you usually
17 have been used to seeing two, one for your local
18 service and one for long distance service. The third
19 one is going to be added, and that's going to be your
20 intraLATA.

21 The rules will also require the consumer's
22 authorization and limit the ways in which a preferred
23 company may be changed. The change may only be made
24 if the company has a signed letter of agency that
25 contains sufficient information to verify that the

1 consumer is authorizing the change. The company has
2 received a consumer-initiated call, has obtained the
3 consumer's consent and has recorded the consent and
4 has recorded the number to be changed. Or an
5 independent, unaffiliated firm has verified the
6 consumer's request or that the company has received a
7 consumer's change request and responds by mailing an
8 information package, which explains the changes,
9 verifies the information and requires a signed
10 statement acknowledging the change. That differs from
11 the current rule; whereas, you may receive a postcard
12 in the mail, and if you fail to send that back within
13 14 days your service gets change. This is just the
14 opposite. It requires a positive motion on your part
15 before it will get changed.

16 Furthermore, a company may not combine the
17 letter of agency with any inducement on the same
18 document. Some of you may have received AT&T checks,
19 inducements. By signing on the back it says that your
20 service will be changed. They may be offering you
21 \$60, \$100. Some companies are offering sky mileage
22 and things of that nature. That will no longer be
23 allowed under the proposed rules.

24 When a copy is solicited in writing or by
25 telephone the inducement may not be misleading or

1 deceptive in any manner.

2 If a person is slammed, charges for the
3 change and all charges billed on behalf of the
4 unauthorized provider for the first 90 days must be
5 credited to the consumer. So if you've been slammed
6 and you've used the telephone up to 90 days, you're
7 not going to be out anything as long as you notify the
8 companies.

9 Upon notification by the consumer, the
10 consumer must be switched back to his or her original
11 provider or the provider of his or her choice. And
12 that concludes the summary of the rules.

13 **CHAIRMAN JOHNSON:** Again, if you have any
14 questions, when you come forward, we will -- either
15 Staff or the Commissioners or any of the individuals
16 present here with the Staff will provide you with any
17 answers to your questions.

18 So with that, if you're here to testify, if
19 you could stand and raise your right hand.

20 Thank you. You may be seated.

21 (Witnesses sworn collectively.)

22 **CHAIRMAN JOHNSON:** Public Counsel, you can
23 call your first witness.

24 **MR. SERVE:** Thank you. Mr. Donald Frost.

25 **CHAIRMAN JOHNSON:** Sir, if you could state

1 your name and address before you begin to provide
2 comments, that will be helpful and help us have a
3 complete record. Thank you.

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DONALD R. FROST, SR.

6 appeared as a witness and, swearing to tell the truth,
7 testified as follows:

8

DIRECT STATEMENT

9

WITNESS FROST: My name is Donald Russell
10 Frost, Sr., 101 Orsen Drive, DeFuniak Springs, Walton
11 County, Florida. I first would like to thank the
12 Commission for calling this meeting. I wish to
13 especially say thank you to Mr. Kenya Tompkins who
14 handled my first complaint. I would like to thank
15 Earl Poucher for the information and directions of how
16 to get here from DeFuniak Springs to this hearing.

17 And my concern, I believe this hearing is
18 long overdue. Because my incident was in 1995. It
19 caused me a lot of inconvenience -- recovering from
20 health problems, a major heart surgery, and a lot of
21 denials by MCI, after 31 phone calls to them and being
22 constantly switched from person to person to person,
23 out in Denver, out in St. Louis, New York, you name
24 the state. I was switched. Constantly refusing to
25 identify themselves -- there's nothing more

1 aggravating to any individual when he calls with a
2 complaint to any business is when the clerks,
3 supervisors and the directors of those companies
4 refuse to identify themselves -- including refusing to
5 give me the name of the president of MCI and his
6 address. That is totally wrong.

7 When my service was switched I would not
8 have known it if I hadn't have read my phone bill from
9 Centel completely. I called Centel and asked them why
10 it said that my long distance carrier was MCI when I
11 had had WorldCom for nearly 20 years? And they said
12 they didn't know.

13 I called MCI. MCI said, "Well, we have a
14 letter of authorization." I said, "I would like a
15 copy of that letter of authorization. I would like to
16 send it to the state of Florida's Attorney General's
17 office, and I would like it sent to our Public
18 Commission -- Service Commission." The young lady out
19 in Oklahoma City said, "Yes, we have that copy and we
20 will send it to you." I waited a few days; no letter.
21 I thought it was reasonable after seven days to call
22 back. When I called back she said, "We sent it to our
23 public relations office. I said, "Fine. Will you
24 switch me to public relations?" They switched me to
25 public relations in Missouri. I asked public

1 relations in Missouri did they have a copy of the
2 letter I had requested. "No, sir, we have not
3 received it." I said, "Do you have the name and
4 address of the individual that said I switched?" They
5 said, no. They could not give that to me.

6 The individual that caused all of this
7 problem for me lived in Sampson, Alabama, and her last
8 night was Fink, and I think Sara was her first name.
9 I asked them if she was an employee of the company.
10 "We cannot identify that for you." And I says, "Why
11 can't you? She switched my service. She's the one
12 that sent you the paperwork. I have a right to know
13 it." And this went on and on and on from 9:27 to well
14 past 11:07.

15 I got a letter from MCI that was so
16 misleading it was unbelievable. They tried to put the
17 blame on Centel. That Centel made the error. And I
18 had said to the woman at that time, a Mrs. Susan
19 Delafield (phonetic), "If your personnel told me that
20 the letter of authorization was sent to your division
21 by Susan Fink of Sampson, Alabama, then how could you
22 blame Centel?" I gave a copy of that letter to
23 Centel, because I felt that they needed to see how
24 they were being blamed for certain things.

25 I wanted my long distance service back,

1 because I could not make any long distance service
2 calls. Because of the problems, they didn't switch it
3 right. They didn't put the proper codes in. I
4 finally got hold of WorldCom. WorldCom very
5 graciously gave me the codes to give to Centel to put
6 me back into the proper service. The code that Centel
7 was using at that time was not putting me in my proper
8 service.

9 Going through the health problems that I was
10 going through, my family in Connecticut and
11 Massachusetts were unable to contact me which gave
12 them a problem. Was I back in for heart surgery? Was
13 I back in for something else? No contact, no way to
14 get ahold of me. And that makes it unfair to any
15 customer.

16 I do have few suggestions that I'd like to
17 give to the Commission. Number one, all telephone
18 companies, local companies have a contract that you
19 sign on the date requesting service, and on that form
20 the name of your long distance carrier. That no long
21 distance carrier, none, be permitted to switch a
22 service for 30 days to which they must send the local
23 service department a copy of your signed request, no
24 verbals. Failure to do so, long distance companies
25 should pay a fine of \$500 and a penalty of \$500 to the

1 customer that was switched without his or her
2 authorization.

3 A lot of phone companies are now taking the
4 position that somebody else did it. You wait for
5 authorization of return. I have now been waiting six
6 months for a credit that was issued in June that I
7 have not received.

8 Slamming is only one of our major problems.
9 Ladies and gentlemen, let me tell you what's the worst
10 one: 900 numbers. I just got hit with \$485 worth of
11 900 number charges on my phone. I thanked AT&T for
12 what they did for me. Because I am on Social
13 Security. They removed the charges. But I also was
14 informed that at any time the 900 company can take me
15 to court to collect that money, even though I did not
16 make the calls.

17 There's got to be a rule set up by the
18 Commission to forbid the charges being charged to a
19 person's phone without his or her authorization.
20 Because folks on Social Security -- ladies and
21 gentlemen, we're not going to be able to afford these
22 \$500, \$600 phone bills. We just cannot afford to be
23 hit that way.

24 Most long distance companies do not give you
25 the name of a service rep. Local companies, long

1 distance companies, the customer should have the name
2 of that representative that would handle his or her
3 problems. It's very important. You can feel
4 comfortable talking to the same person all the time
5 and not be run around and around and around.

6 I think the Commission should also set a
7 rule that anytime a customer requests the name of a
8 supervisor, a director of a division of operations, or
9 the name and address of the president of those
10 companies, they should be furnished to us with no
11 hesitation. Because that is important for us to write
12 letters and we can't do it without that information.
13 And I thank you all for this opportunity to be able to
14 talk.

15 **CHAIRMAN JOHNSON:** Thank you. Mr. Frost,
16 there may be some questions for you.

17 **COMMISSIONER GARCIA:** Mr. Frost, I wanted to
18 ask you, these problems that you had, did you contact
19 the Commission at any point or was it Mr. Poucher who
20 directed you to the Commission later on?

21 **WITNESS FROST:** No, I had contacted.

22 **COMMISSIONER GARCIA:** Mr. Frost, it might be
23 easier if you press the button until the light is not
24 on and then remove your hand. When the light is off,
25 you're on and you can let go.

1 **WITNESS FROST:** I contacted Kenya Tompkins
2 on 9-27. Very nice gentlemen. I understood he was a
3 part-time worker for the Commission, so there was only
4 certain times of the day that I could talk to him. I
5 contacted Mr. Poucher this morning so I would know how
6 to drive from DeFuniak Springs to here. This is my
7 first time I have ever been in the city of
8 Tallahassee.

9 **COMMISSIONER GARCIA:** Welcome.

10 **WITNESS FROST:** I'm thankful he gave me the
11 road instructions of how to get here.

12 **CHAIRMAN JOHNSON:** Mr. Frost, you mentioned
13 that you're due a credit and a credit should have been
14 issued. I guess you have been waiting about six
15 months for a credit. Who owes you that particular
16 credit or that money?

17 **WITNESS FROST:** That is owed to me by
18 Sprint. These were charges on my phone. I had two
19 credits coming. To give you an example, I received my
20 bill yesterday -- correction, Saturday. And their
21 charge, they put it in my bill that I have \$10.25
22 credit, and then they don't deduct it from my bill,
23 but I'm charged a 50 cent late charge.

24 I talked to both parties concerning
25 transferring this. This was another illegal

1 transaction. This was by a company in Texas that put
2 me on a Voice Mailbox. From what I understand, they
3 have no lines that they can authorize -- operate in
4 the Panhandle. But I'm being billed \$10 and something
5 a month for something I didn't ask for and something I
6 don't need. I can go to the phone company and get it
7 for a lot less than that.

8 But it's taken Sprint all of these months to
9 get that corrected. And all of the time they just
10 keep adding charges.

11 COMMISSIONER GARCIA: Could you do us a
12 favor? Before you leave, speak with Bev DeMello who
13 is right there, and she'll get your information, and
14 we'll open a file and make sure you get that resolved
15 because I think they'll be a little bit more
16 responsive if you can get the Commission involved.

17 WITNESS FROST: Okay.

18 COMMISSIONER GARCIA: Let me ask you about
19 the 900 charges. How did those appear on your bill?

20 WITNESS FROST: I had let a young person --
21 we rented out a room to him. He worked late nights.
22 I'm an individual who happens to be in bed usually by
23 9:30 at the latest. These calls were made at
24 midnight, one, two o'clock in the morning.

25 COMMISSIONER GARCIA: And the company just

1 gave you credit for it because it was --

2 **WITNESS FROST:** No, the company didn't; AT&T
3 did.

4 **COMMISSIONER GARCIA:** Because they were
5 charged to your bill through AT&T?

6 **WITNESS FROST:** Without any authorization.

7 **COMMISSIONER GARCIA:** Okay.

8 **WITNESS FROST:** Now, you're talking about
9 automatic sales calls coming in.

10 The telephone company is adding a charge to
11 us of \$10 for the initial and \$5 per year thereafter.
12 I don't believe that's correct. I don't think it's
13 right. We should not be charged for something like
14 that. When I had a private line unlisted,
15 nonpublished, my telephone number was given to sales
16 companies. That's not right. And then to take around
17 and charge us for not putting our names in the phone
18 books. Those aren't right. Our contract today with
19 the phone companies is not customer-friendly. They
20 are out for the bottom line profit and 900 numbers
21 should be banned across this whole country. That is
22 the highest racketeering there is by use of the phone
23 companies, and it should be banned state by state
24 until it is done away with.

25 **CHAIRMAN JOHNSON:** Thank you, Mr. Frost.

1 Any other questions?

2 COMMISSIONER DEASON: Yes, I have a few
3 questions. Mr. Frost, you indicated there was a time
4 when you were unable to receive long distance calls.

5 WITNESS FROST: When I called about my
6 number being switched, they said they would get me
7 switched back. It was cut off, so I was a week
8 without service.

9 COMMISSIONER DEASON: It was your
10 understanding that during that week you could not
11 receive long distance.

12 WITNESS FROST: I could not receive long
13 distance calls from out of the state because I had no
14 long distance service.

15 COMMISSIONER DEASON: Did anyone indicate to
16 you -- did they try to call you and could not complete
17 the call?

18 WITNESS FROST: My brother in Connecticut,
19 my sister in Massachusetts could not contact me. They
20 didn't know what had happened. They figured I was
21 back in for another heart operation. And finally I
22 got through. But they were told both by the telephone
23 companies in Connecticut and Massachusetts that I did
24 not have a long distance service.

25 COMMISSIONER DEASON: Commissioner Garcia

1 has asked you to meet with our Staff about some other
2 matters. I'm going to request that you have them or I
3 directly request Staff to investigate that. That
4 seems to be a very unusual situation for calls not to
5 be able to be completed. It was my understanding that
6 if the individual has a working local number that he
7 should be able to receive long distance calls from
8 person's originating those, unless they are collect
9 calls, that may be a problem. But if they are dialed
10 direct, I've never heard of that situation being
11 encountered with a slamming problem. If you have some
12 information on it generically, if you could share it
13 with us, I'd appreciate it.

14 MR. NOSES: Well, your understanding is
15 correct. You can have no access to toll services and
16 still receive a long distance call because it's the
17 originating number that has the toll service that is
18 reaching you, and it may be a different carrier than
19 the one you're presubscribed to, which is normal.
20 Evidently -- was it a collect call, sir?

21 MR. GROSS: No. Let me explain to you.
22 WorldCom probably has four, maybe five
23 codes. These codes are set up to give you to the
24 service that you are in. If somebody puts the wrong
25 code in like they did on my phone, then I have no

1 service. Because they have switched me to something
2 that becomes deadlocked. That's why when I contacted
3 WorldCom and asked for their supervisor of
4 maintenance, he looked up into the computer and found
5 out that the wrong codes had been entered for my
6 particular service. The WorldCom has more than one
7 service throughout the areas. And when he gave it to
8 me, I contacted Centel's night supervisor of
9 maintenance. He went in to their computer network,
10 put the code in that was begin to me. It brought me
11 back up to service. I was putting on a service line
12 by code that didn't service DeFuniak Springs/Walton
13 County and that area. It served itself and that's why
14 I had no service.

15 MR. MOSES: I'd like to get some more
16 information from you on that, because that should not
17 have happened technically. Because whether or not you
18 have service on the same carrier, it does not matter.
19 I could call you from my house. I may have AT&T, MCI
20 or what. It doesn't matter what carrier you have, I
21 should be able to complete a call to you by my
22 carrier. If anyone makes a long distance call to you
23 it's carried by the call -- excuse me -- carried by
24 the carrier of their ohoice, not the one you were
25 presubscribed to. So let me get some more information

1 from you before you leave.

2 **COMMISSIONER DEASON:** Mr. Frost, it is a
3 most unusual situation, and that's why I'm going to
4 ask Staff to look into it a little bit further.

5 And the other question I have pertains to
6 your suggestion that there be a \$500 fine paid to the
7 state and then another \$500 fine paid to the victim?

8 **WITNESS FROST:** That's correct.

9 **COMMISSIONER DEASON:** And this -- a similar
10 suggestion was made at the hearing that we had in
11 Pensacola not too long ago, and I'm going to ask our
12 legal Staff to look into the rule question of whether
13 we have the legal authority to impose a fine that is
14 paid to the customer. I know we have the authority to
15 impose a fine that is paid to the state, but perhaps
16 it's entirely different matter to have a fine paid to
17 a customer. Since we are getting these suggestions
18 and since we've -- this is the second hearing we've
19 had, and we've had this same suggestion in both
20 hearings. I anticipate we'll receive similar
21 suggestions throughout the state. I think we need to
22 investigate the legality of that possibility.

23 **WITNESS FROST:** The other thing that also
24 needs to be done is not to allow any phone company to
25 go to malls, parades, fairs, carnivals and have people

1 sign paperwork not realizing that was an authorization
2 slip for service. They don't explain it to you.
3 Ladies and gentlemen, this happened to me down in
4 Homestead, Florida, right after the hurricane.
5 Believe me we needed phone service. We needed it bad.
6 And this was supposed to have been a little temporary
7 deal where we could go to a phone outside the area and
8 give them a code, we'd get a free phone call. It
9 never happened. It was a switching of service.

10 **COMMISSIONER DEASON:** Mr. Frost, our
11 proposed rule addresses that very specific situation.
12 And we're hopeful that with the language that is being
13 proposed, if it is finally adopted, that, hopefully,
14 we will, if not prevent, curtail such activities
15 because we're very concerned about that type of
16 activity as well.

17 **WITNESS FROST:** There have been things that
18 the phone companies have done that I assume that you
19 are all aware of. During the hurricane or shortly
20 after the hurricane, if it had not been for the phone
21 companies that brought in these field-type phones and
22 gave us a temporary service, relatives of ours across
23 the country would not have known who was still alive
24 in Homestead. We do -- we're very thankful for that.
25 But there is greed in the phone company services. And

1 their bottom line is to build a profit, not take care
2 of the customer. Build the profit. And that has got
3 to come to a halt. They've got to take care of the
4 customer. Without the customer there is no phone
5 company.

6 **CHAIRMAN JOHNSON:** Thank you very much,
7 Mr. Frost, for your testimony and for your
8 suggestions. Again, there is a Staff person that is
9 waiting there for you to help you with some of your
10 still existing concerns and complaints. Thank you
11 again for your testimony.

12 **WITNESS FROST:** I thank you for my time.

13 **MR. GROSS:** Excuse me, Madam Chairperson, I
14 have a question for Mr. Frost.

15 **CHAIRMAN JOHNSON:** Certainly, Mr. Gross.

16 **EXAMINATION**

17 **BY MR. GROSS:**

18 **Q** Mr. Frost, you had mentioned that there was
19 an unauthorized billing for a mailbox -- a Voice
20 Mailbox service from a Texas company. Do you recall
21 the name of that company?

22 **A** Trans -- offhand, I'm going to say it was
23 Transmittal Service Company. I can call your office
24 if you would like me to. I have the file on all of my
25 problems in the latter six months. I left those at

1 the house because those concerned a local matter and
2 not a slamming matter. I didn't bring those with me.

3 Q I'd appreciate that, if you could follow up
4 on that.

5 I also have a another question about one of
6 your suggestions that there be a 30-day freeze
7 documented in writing at the time a person obtains
8 local telephone service, that there would be a freeze
9 on the long distance service. Did I understand you
10 correctly?

11 A When a party signs up for his phone service,
12 any switching of service, any long distance service,
13 the contract must be mailed back and it must be a hold
14 of 30 days so that the customer can verify with the
15 local company, yes, this is true.

16 Q Okay. I understand.

17 A I'm sorry.

18 Q I misunderstood you. I apologize. I now
19 thank you for the clarification.

20 WITNESS FROST: Your welcome.

21 MR. GROSS: Thank you.

22 CHAIRMAN JOHNSON: Any further questions for
23 Mr. Frost?

24 MR. SHREVE: Thank you, Mr. Frost.

25 WITNESS FROST: Thank you.

1 **CHAIRMAN JOHNSON:** Mr. Danaher.

2 **EUGENE DANAHER**

3 appeared as a witness and, swearing to tell the truth,
4 testified as follows:

5 **DIRECT STATEMENT**

6 **WITNESS DANAHER:** My name is Eugene Danaher,
7 Route 3 box 249, Tallahassee 32308.

8 Before I get into my -- meat of my
9 discussion, I'd like to make two housekeeping
10 suggestions if I may.

11 First, we heard from counsel some specific
12 suggestions for changes. And they sounded
13 interesting, but I had a hard time keeping notes. It
14 would seem to me it would be very germane to make
15 those suggestions, even though they are in a
16 preliminary state, available to everybody in here so
17 that we know what the current status of thinking is.
18 I think that would be very customer friendly.

19 **COMMISSIONER DEASON:** Mr. Danaher, a summary
20 of that is attached to the --

21 **WITNESS DANAHER:** I'd like to get the exact
22 words that this gentlemen spoke over here so I know
23 what is being proposed, if that's possible.

24 **COMMISSIONER DEASON:** Very well. Certainly.

25 **WITNESS DANAHER:** Could we have those before

1 we leave?

2 MS. CALDWELL: I think he read them directly
3 off of the sheet.

4 CHAIRMAN JOHNSON: I'm sorry.

5 COMMISSIONER DEASON: He seemed to be
6 following the green sheet. As I was following along,
7 he pretty much read it word for word or very closely,
8 anyway.

9 MS. CALDWELL: Mr. Danaher, we also have
10 copies of the proposed rules back here, and I think
11 Mr. Durbin is bringing you a copy right now.

12 WITNESS DANAHER: Fine. Thank you. I
13 appreciate that. Do these encompass what you said?

14 MR. MOSES: Yes, sir, they do.

15 WITNESS DANAHER: Oh, very good. I didn't
16 see those.

17 MR. MOSES: The only thing I really changed
18 in the wording from the sheet that you have got is
19 that I just interjected the word "intraLATA" where it
20 says local toll. The word "intraLATA" is also used in
21 the rules, so that's where you'll see it.

22 The second comment is -- and I want to
23 compliment the Chair for explaining why this meeting
24 didn't start on time. I think it was a very
25 legitimate concern.

1 I've attended a lot of meetings at the city,
2 county, state, PSC, civic center authority. Rarely
3 does a public meeting start on time. I just attended
4 a City Commission meeting last Wednesday, it was 22
5 minutes late, they took a five-minute recess and spent
6 17 minutes on the recess.

7 **COMMISSIONER GARCIA:** I'll have you know the
8 Chairman is very punctual.

9 **WITNESS DANAHER:** Very good. I would like
10 to compliment her for --

11 **COMMISSIONER GARCIA:** Certain of the
12 Commissioners are running late every once in a while,
13 but the Chairman is on time.

14 **WITNESS DANAHER:** All right.

15 Let me get into my comments. Some of you
16 may remember, I think some of you were on the dias
17 when I was here. Susan Clark, I believe, was the
18 chairperson. Two or three years ago I was so
19 concerned about this matter that I came before the
20 Commission without any proper -- or prior approval and
21 Ms. Clark slipped me on the agenda, and I pontificated
22 on my concerns about slamming. And I said, "I think
23 it's something that is out of control, and if we don't
24 do something it's going to get worse." And I think
25 everybody was very courteous and listened to me but

1 with all due candor, I think that's what has happened.

2 Really not too much has been done both
3 nationally and within the state and this problem has
4 gotten worse. The Wall Street Journal has done a
5 marvelous job of documenting what's going on, and they
6 said in 1995 we had virtually no problems with
7 slamming but that was before we went into massive
8 deregulation. And by 1995 with hundreds of tiny
9 wholesalers scrambling to sign up phone customers,
10 slamming became the most frequent large grievance at
11 the FCC. Then it went on and on locally as here.

12 And one of the things, and I think it ties
13 in with this previous gentleman's comments, is that in
14 this article that I have out of the Wall Street
15 Journal, the thing that appalls me is the arrogance of
16 these slammers in saying that the consumers are at
17 fault. Shannon McManners (ph) of EqualNet Investor's
18 relation staff, said consumers may be at fault. In a
19 written statement she said the FCC's scorecard
20 highlights a growing concern among many companies in
21 the reselling industry. The lack of understanding
22 among consumers as to the difference between long
23 distance sellers, resellers, such as EqualNet, and
24 bigger, more well known carriers.

25 The FCC properly took her to task for that.

1 But I don't think the customers are at fault.

2 I have tracked since I appeared before you,
3 and even before I was tracking, the total number of
4 complaints that you get on electrical operations or
5 complaints and the number of complaints that are
6 related to slamming. And I think it's a very
7 interesting trend. In 1991 you got 294 slamming
8 complaints which was 33% of the total complaints,
9 electrical -- or telephone complaints received that
10 year. In '92 you had 318 which was 40%. Not the
11 trend? '93, I couldn't find the data, it was there
12 but I apparently set it aside. '94 we had 1,049
13 slamming complaints in the state of Florida with your
14 Commission; 57%. In 1995 we had 2,316; 70%. Last
15 year we had 2,393. And I haven't been able to get the
16 total number of complaints, but I respectfully suggest
17 it's probably closer to 75 or 78% of the total number
18 of complaints. So the trend is inexorably going up.
19 I think part of that may be because the total
20 complaints are going down. But the slamming
21 complaints in relation to the total number of
22 complaints in the state of Florida is going up.

23 So I think it's obvious to anybody that this
24 is a situation that's out of control. And I only
25 think we're seeing the tip of the iceberg here.

1 I have two neighbors. I told them I was
2 coming down here, and they said, "Well, gosh, I have
3 been slammed." And I said, "Well, did you file a
4 complaint?" "No." I think, you know, if you really
5 knew how many complaints there were out there, I think
6 you would be -- your mind would be boggled. This is
7 just the tip of the iceberg.

8 I'd like to talk a little bit about this
9 special report you have passed out. I'm baffled by
10 it. You list the top ten slamming offenders. Phone
11 Calls, Incorporated. This is for the 31-month period
12 ending in July, 1997, 476. So then I look down below,
13 "Fine, Settlements, Agreements for Slamming," and I
14 see we're going to assign \$860,000 penalty, but it's
15 only proposed. So this thing has been going on for
16 months and we haven't even got a fine in place. We're
17 just talking about it. Heartline Communications, 290
18 complaints. We fined them \$50,000. They have been
19 fined, I presumed. AT&T, 280 complaints. They have
20 been fined \$30,000.

21 I guess the point I'm making is that it
22 seems to me that we're a little slow in assessing
23 fines. You have an abundance of evidence here,
24 apparently, in your own documentation. And I don't
25 understand the disparity between Phone Calls,

1 Incorporated's proposed fine of \$860,000 and Heartline
2 Communications', a modest, meager \$50,000. Now, what
3 did Phone Calls do that was so bad, or what did
4 Heartline Communication do that's so good that there
5 should be such a tremendous disparity? It seems to me
6 there ought to be some correlation between the number
7 of offenses and the fines that are assessed. And
8 those fines should be assessed in a timely manner.

9 My last comment is -- and I want to commend
10 you for taking these public hearings. I know it takes
11 a lot of time for all of you, but I think it's
12 excellent. But I have an observation to make. I
13 looked at the schedule here, and this is the second
14 hearing and you're going to have your last hearing in
15 Jacksonville on 11-20-97. But the thing that baffles
16 me is that you're not going to really move into doing
17 anything about it -- if I can get my notes here,
18 wherever it is. Apparently I've set them aside. Oh,
19 here it is. The last hearing is on 11-20. Then
20 you're going to have a formal hearing on February the
21 6th, 1998. Then the Staff is scheduled to make a
22 recommendation to the Commission on March 26th, 1998,
23 and then the Commission is scheduled to vote on this
24 matter on April the 17th, 1998, five months after the
25 last hearing. I don't think this is -- impresses me

1 as a citizen that you're really giving this a
2 fast-track approach. Five months? This is glacier
3 speed. It seems to me you could short track this
4 considerably.

5 You're getting these excellent comments from
6 me and everybody else, for whatever they are worth.
7 Certainly, you can be developing drafts of your
8 proposed rulemaking as you go along. Why do we have
9 to give the Staff such luxurious time periods to come
10 up with final decisions? I don't think this is a
11 situation that should be handled in a "business as
12 usual." This is an important, serious public concern.
13 It's customer unfriendly, as this previous gentleman
14 pointed out. I sympathize with the problems he's had,
15 far in excess of any I have had. But to take five
16 months after the last hearing before you people sit up
17 there and vote on something. I'm not impressed.

18 I thank you for the time to speak with you.
19 I'll take any questions you might have.

20 **CHAIRMAN JOHNSON:** Thank you, Mr. Danaher.
21 Questions for Mr. Danaher?

22 **COMMISSIONER DEASON:** Perhaps it would be
23 useful for Staff to address the time schedule involved
24 in this proceeding, because I know that there are a
25 number of steps that we have to go through to

1 effectuate rulemaking consistent with procedures and
2 law. And maybe you could educate us a little bit on
3 that process.

4 MS. CALDWELL: That's correct, Chairman. We
5 are following the newly passed 1996 Florida
6 Administrative Procedures Act on the rulemaking. It's
7 Chapter 120.54, Florida Statutes, and it requires us
8 to hold these rule development workshops when they
9 have been requested. So we have to go through that
10 process.

11 We plan to -- the Commission first has to
12 propose a rule, then we have to give a certain amount
13 of time for comments. Then once those comments are
14 received, we then have a public hearing. We're then
15 having a rule hearing, which is February the 6th.
16 Parties, through our process, rulemaking process, are
17 then given the opportunity to file briefs.

18 And then Staff has to review those briefs
19 and finally make the changes to the rules, based upon
20 the record that's been made during this process. We
21 also have to work within the constraints of the time
22 that the Commissioners can meet. They generally meet
23 every other Tuesday of the month. And Staff has to
24 file its recommendation ten days prior to when they
25 meet.

1 So within all of those time constraints,
2 Staff, in fact, has very little time in between to be
3 doing all of the analysis that we need to do to make
4 sure that we have a rule that is going to be the most
5 effective. And we're hoping to file the -- take the
6 rules on April 7th to the agenda conference and,
7 hopefully, they will become effective approximately 20
8 days after that. So we're going as fast as we can
9 within the constraints of the law that has been put
10 upon agencies with the new APA act.

11 **WITNESS DANAHER:** I find it interesting that
12 Janet Reno announced today that she's fining Microsoft
13 a million dollars a day for failure to comply with
14 their consent agreement. She seems to move with some
15 speed. I appreciate it's a different situation. I
16 just respectfully suggest as a citizen sitting here
17 this sounds to me like a lot of bureaucratic
18 gobbledeygook. And it seems to me you people could do
19 a little more effort under the Chair's direction -- I
20 don't want you to violate any laws -- and just try to
21 get the job done a little quicker.

22 **CHAIRMAN JOHNSON:** Thank you, Mr. Danaher.

23 **MR. SHERVE:** Thank you, Mr. Danaher.

24 Mr. Michael Kennedy.

25

MICHAEL KENNEDY

1
2 appeared as a witness and, swearing to tell the truth,
3 testified as follows:

DIRECT STATEMENT

4
5 **WITNESS M. KENNEY:** Michael Kennedy. I'm
6 the president of North Bay Electronics in Panama City,
7 Florida, and the address is 3309, Frankfort Avenue,
8 Panama City, Florida, 32405.

9 I want to thank you for having these
10 hearings. From what I've heard of the proposed
11 changes, I think it will take care of the problems I
12 have had. I got slammed a couple of times at my
13 business. The first time was relatively uneventful in
14 early 1995, where a reseller had called in and told
15 one of our girls they were going to get a discount on
16 the phone service. And inadvertently she gave them
17 our numbers that were with AT&T. And our phone got
18 switched. It was relatively easy to get them switched
19 back. And I think I'm a little bit nervous here.

20 **CHAIRMAN JOHNSON:** That's fine.

21 **WITNESS M. KENNEY:** Let me take a breath
22 here for a second.

23 The second incident was -- took a little
24 longer to resolve. And it was -- it involved AT&T and
25 this Discount Network Services, which you've listed in

1 your slamming activity report here. That second
2 incident took about a year and three months to finally
3 get resolved. We had originally had a contract with
4 AT&T for long distance services for about a three-year
5 period. And within about six months of that contract
6 expiring, we switched three of the four lines we had
7 at the facility. We left the main line with AT&T,
8 because our contract required that. And within
9 several weeks we were converted back to this Discount
10 Network Services. We did not know how that took
11 place, and we never did get to the bottom of how that
12 change took place.

13 On pursuing who Discount Network Services
14 was, we learned that they were within AT&T. The
15 number to contact them was the same number that
16 appeared on our original AT&T contract. AT&T claims
17 that they are just a network reseller, but to contact
18 them you call the main AT&T number.

19 When we got switched our phone rates went
20 double. We were several months getting that resolved
21 back to what we had been paying in getting our phone
22 line switched back to go with the carrier we preferred
23 to be using. When our contract expired with AT&T, we
24 terminated our service and went with our preferred
25 carrier. We subsequently received a bill with no

1 backup, said they just reviewed our record and we owed
2 them another \$500-and-something, and that if we didn't
3 pay within a reasonable period of time they would turn
4 it over to a collection agency. And we received a
5 notice from a collection agency within two weeks. We
6 contacted both the AT&T and the collection agencies
7 and told them we didn't have any backup as to what
8 this was for, and wanted an explanation. And all we
9 got was continuing letters from the collection agency.
10 We had to finally contact the FCC in order to get it
11 resolved and it eventually was resolved.

12 **COMMISSIONER GARCIA:** Let me ask you about
13 the FCC here. How good were they in terms of dealing
14 with you? Because I've always heard complaints at the
15 FCC, which is one --

16 **WITNESS M. KENNEY:** When I had the problem,
17 I first called our local telephone company here and
18 asked them what to do, and they were the ones who told
19 me. I wrote them letters and they responded they
20 would look into the matter. And other than taking
21 some time, every time I did send them a letter things
22 got resolved. So other than the normal time frames it
23 takes to resolve something, it was a positive
24 experience.

25 **COMMISSIONER GARCIA:** Sorry for interrupting

1 you, Mr. Kennedy.

2 **WITNESS M. KEMNEY:** That's fine. I don't
3 want to take up a whole bunch more of your time. I
4 brought copies of the letter that went back and forth
5 to AT&T, to the FCC, and just for your view, I
6 believe, again, what you're doing is going to resolve
7 the kind of problem I had.

8 One other comment I might have is that AT&T
9 in their response to the FCC just claimed that this
10 Discount Network Services was just a reseller and
11 wasn't something that they were participating in. But
12 to contact Discount Network Services all you have to
13 do is call AT&T. So I don't know. I'm sure they've
14 legally separated the entities but somehow there's a
15 relationship. And that's all the testimony I really
16 have.

17 **COMMISSIONER GARCIA:** If I'm not mistaken,
18 in our rule presently the company can't bill for
19 someone who is not certificated in the state, correct?

20 **MR. MOSES:** No, sir. In the rule right now
21 it requires them to put the language in their tariff
22 that they must have a certificate prior to operating
23 in Florida.

24 **COMMISSIONER GARCIA:** I thought we had
25 worked on that, that a company cannot bill for -- for

1 example, AT&T could not bill for Network Services
2 unless Network Services was certificated in the state.

3 MR. MOSES: Well, AT&T has changed their
4 procedure to where they are not going to bill in
5 AT&T's name; that they would drop their name off of
6 it.

7 WITNESS M. KENNEY: I have an actual bill
8 from AT&T that combines the two.

9 COMMISSIONER GARCIA: Right. I think that's
10 something we should look at. I thought that that had
11 been adopted at some point, but I definitely think in
12 order to be providing long distance service in the
13 state from a major IXC that they should -- that IXC
14 should have some type of certificate filed. In other
15 words, there should be proof by AT&T that X Company
16 operating in the state of Florida has a certificate to
17 operate in the state of Florida so that we have some
18 way to get to these people and so that AT&T can't
19 avoid responsibility.

20 And forgive me, if AT&T is in the room. It
21 isn't about AT&T. It's simply about the larger
22 carriers. But many times you have smaller companies
23 working through larger companies who aren't
24 certificated in the state. And I know we have many
25 occasions we've tried to contact these companies and

1 we haven't been able to.

2 I'm sorry Mr. Kennedy.

3 **CHAIRMAN JOHNSON:** Mr. Kennedy, you have
4 stated that one of the unauthorized switches led to
5 doubling of your rate.

6 **WITNESS M. KENNEY:** Yes.

7 **CHAIRMAN JOHNSON:** Did you receive a refund?

8 **WITNESS M. KENNEY:** Yes. We settled for the
9 rate we would have been paying with our preferred
10 carrier.

11 **CHAIRMAN JOHNSON:** Okay. And you also
12 stated when you were experiencing some of these
13 problems that you called your local company and they
14 referred you to the FCC. Did they also refer you to
15 the Public Service Commission?

16 **WITNESS KENNEDY:** No, they didn't. I wasn't
17 aware that we could contact you.

18 **CHAIRMAN JOHNSON:** Okay. One of the things
19 that we heard in our hearings that we held in
20 Pensacola was that generally the individuals were
21 referred to the FCC. And relating to what
22 Commissioner Garcia said, oftentimes if you file with
23 the FCC, you start with an informal process. But if
24 your complaint isn't resolved through that, you have
25 to go through a formal process and that costs \$125.

1 Did you have to pay that amount?

2 WITNESS M. KENNEY: No, we didn't.

3 Everything got resolved just with our documentation.

4 CHAIRMAN JOHNSON: Okay. Any other
5 questions for Mr. Kennedy?

6 WITNESS M. KENNEY: Is there someone who
7 would like the copies of these?

8 CHAIRMAN JOHNSON: Yes, we'll have a -- and
9 Public Counsel may want to have those papers, also.
10 Again, if you look at our Special Report there's a
11 1-800 number in here, and also you'll be able to file
12 your complaints to the PSC via the Internet and our
13 home page. So we're trying to make the Commission
14 more accessible and inform people that we are here and
15 these are exactly the kind of issues that we should
16 and would like to continue to try to help you with.

17 WITNESS M. KENNEY: I think you're going to
18 be able to clear it up some.

19 CHAIRMAN JOHNSON: Thank you.

20 WITNESS M. KENNEY: Thank you.

21 MR. SHREVE: Thank you, Mr. Kennedy.

22 Emily Kennedy.

23

24

25

EMILY KENNEDY

1
2 appeared as a witness and, swearing to tell the truth,
3 testified as follows:

DIRECT STATEMENT

4
5 **WITNESS E. KENNEDY:** I'm Emily Kennedy. My
6 address is the Herb Shop, 302B West 23rd Street,
7 Panama City, Florida.

8 In looking at my September phone bill, I
9 realized I had been slammed. The name on my bill is
10 Vista Group Communications. There was no telephone
11 number on my bill for them and I called AT&T. They
12 suggested that I call -- I'm sorry, I called
13 BellSouth, and they suggested I call USBI. USBI gave
14 me the telephone number for Vista Group. I called on
15 several occasions and could never receive an answer.
16 And they also gave me the address. It's Vista Group
17 Communications, 821 West Point Parkway, West Lake,
18 Ohio 44145.

19 Basically, they said that they switched with
20 authorization. I said, "What day?" And it was
21 actually March 1st, and that was on a Saturday. My
22 only regret is that I did not catch this until now.
23 My secretary usually pays my bills for me.

24 But a Saturday -- on a Saturday I have a
25 part-time employee, and so she does not recall this.

1 But my point is that I certainly did not give
2 authorization. And if they got any kind of
3 authorization, it was from a part-time employee and
4 that's it. I wrote them a letter, and so I do expect
5 to hear from them when I don't pay that portion of the
6 bill. I just paid for my services.

7 **COMMISSIONER GARCIA:** I would suggest,
8 again, that you speak with one of our customer service
9 people and open -- go ahead and file a complaint with
10 us to make sure that you -- that the company doesn't
11 have a problem with you not paying that portion of the
12 bill. Because if you have a formal complaint with us,
13 they are not going to collect that portion.

14 **WITNESS E. KENNEDY:** Okay. Thanks very
15 much.

16 **CHAIRMAN JOHNSON:** Ms. Kennedy, you stated
17 that they said there was authorization given, but have
18 they provided you with any documentation?

19 **WITNESS E. KENNEDY:** No, no documentation.
20 And my employee does not recall authorizing anything.

21 **CHAIRMAN JOHNSON:** And how many months have
22 you been with this new carrier?

23 **WITNESS E. KENNEDY:** I'm really embarrassed
24 to say that I did not realize this until September.

25 **CHAIRMAN JOHNSON:** That's understandable.

1 **WITNESS E. KENNEDY:** Because my bill had
2 doubled, and I started really looking at every phone
3 call and then I realized in small print "Vista Group
4 Communications" on my bill.

5 **CHAIRMAN JOHNSON:** One of the things -- when
6 you meet with Staff, one of the things that we would
7 like to do is to look at the date of that switch to
8 make a determination as to, you know, perhaps --
9 particularly, given the fact that it looks as if this
10 was -- that they did not have proper authorization,
11 even if they thought they had some sort of
12 authorization -- and that way we could, at least under
13 the current rules, rerate and make them at least
14 refund you the difference in what you would have been
15 charged. Under the new proposed rule, certainly --
16 and that is a proposed rule, we've not voted on that
17 yet but it will be a requirement that you not be
18 charged at all for the unauthorized switch and the
19 services that were rendered under that unauthorized
20 switch.

21 But if you could, meet with our Staff and
22 they'll try to help you with this problem. Thanks for
23 testifying.

24 **COMMISSIONER GARCIA:** It was a good
25 suggestion by Ms. Kennedy about the company should be

1 required to put a phone number when it bills through
2 the LEC so that persons have -- so that they can
3 directly reach the company. Because I know it's very
4 difficult for them. As a general rule, the LEC has
5 very little information on who this customer is, and
6 usually they've already paid off that bill by the time
7 the customer receives it. So maybe to some degree our
8 rule can contemplate demanding that on the billing
9 statement that the number is required.

10 **MR. MOSES:** That's in the proposed rules.

11 **COMMISSIONER DEASON:** Let me clarify one
12 thing. The Chairman indicated the proposed rule, that
13 when there is a slamming there would be no charge. I
14 think there's a 90-day limitation on that.

15 But the other thing is you indicated that it
16 went for some time without your knowledge and that --
17 I can understand that happening. We had a suggestion
18 by a customer in Pensacola that there be a requirement
19 that when there is a change in the long distance
20 carrier that there be some type of special notice put
21 in the billing, printed on red paper or something that
22 really catches the customer's eyes. Do you think that
23 would have been helpful in your situation?

24 **WITNESS E. KENNEDY:** Oh, absolutely.

25 Absolutely.

1 **CHAIRMAN JOHNSON:** Thank you, Commissioner
2 Deason, for raising that point. Another point raised
3 on that same issue, a lady testified that she received
4 her bills perhaps quarterly, and so that she wouldn't
5 get a bill, you know, every three or four months. So
6 that whether or not -- there are two issues, one
7 whether the person should be charged at all, and how
8 should that time period be defined? Your testimony is
9 helpful because customers, often they don't notice
10 right away, and it is difficult when you have a lot of
11 bills, particularly when you're a business and someone
12 else is taking care of those matters for you. But
13 we're glad that you're here and our Staff will be here
14 to assist you and see what we can do to remedy this
15 situation.

16 **WITNESS E. KENNEDY:** Thank you. I certainly
17 do appreciate your proposal.

18 **CHAIRMAN JOHNSON:** Thank you.

19 **MR. SHERVE:** Thank you.

20 Margaret Gordy.
21
22
23
24
25

MARGARET GORDY

1
2 appeared as a witness and, swearing to tell the truth,
3 testified as follows:

DIRECT STATEMENT

4
5 **WITNESS GORDY:** My name is Margaret Gordy.
6 I live at 130 Oak Street, Tallahassee. And this is
7 the first time I've ever done this in all these years,
8 so if I'm nervous, forgive me.

9 **CHAIRMAN JOHNSON:** That's fine.

10 **WITNESS GORDY:** I have been slammed. On May
11 the 2nd, when I read my telephone bill, the April 25
12 bill. I was checking it for my long distance calls
13 and for some reason I checked it a little more
14 carefully than I ordinarily do. And down in the fine
15 print I noticed that charges and credits, I had one
16 plus change interstate charged to USLD, \$2.40. And
17 that entry was made again, \$2.40. Well, I thought
18 what on earth could that be?

19 So I called Sprint. And a very polite young
20 lady said that someone had called and changed my long
21 distance carrier. I said, "Well, they can't do that
22 without my authority." She said, "Yes, they can."
23 And they did. So I said -- and she was very nice, and
24 she said that I could get it changed back but it would
25 cost me \$5. I said no way would I pay for \$5 to have

1 that changed back. I didn't authorize it in the first
2 place. And so she was very nice and said well she
3 could take care of it, which she did.

4 So after I finished talking with her and she
5 sent the note to me, I said, "Well, I'm not satisfied
6 with this. I'm going to call the Public Service
7 Commission." Which I did. And I talked with a very
8 nice representative there, and gave her the
9 information. And she was going to file a complaint,
10 which she did, against this USLD, which I had never
11 heard of it.

12 Within a few days I received a letter from
13 USLD and, of course, they, in their letter, said that
14 Britain Communications was the person who had
15 instigated the change. Well, I didn't understand
16 that, either. But the letter was addressed to a
17 member of the Public Service Commission from USLD.

18 So in a few days I received a certified
19 letter from Britain Communications. And it's a long
20 letter. And the last page of it was this signed
21 authorization for this change. And this is what
22 baffles me -- if I can find this letter -- how someone
23 who has a form, the register for long distance
24 service, BCI Corporation; "fill out completely" was
25 what it said. It is not dated. The person's name is

1 printed. It gives the person's name. My phone
2 number, his address -- I won't give you that address
3 here -- and his signature. My question here is how
4 did this person get this form? From whom? And was he
5 compensated for it?

6 You have a copy of this complete file in
7 your office. The number is file number -- well, I
8 can't give you the file number. But it does -- oh,
9 here it is, 1735061.

10 I was supposed to have been credited for I
11 believe it was \$16 and something, but they said they
12 would reimburse me within 30 days. Well, when I
13 received my next bill I decided I would just deduct it
14 from the bill myself. Well, that was not such a good
15 idea because even though -- when I talked to sprint
16 they said it was all right. But the next month they
17 had charged me a service -- a late charge or whatever
18 for not having paid that, and I was very irritated
19 about that.

20 But, anyway, they finally did get it all
21 straight, they say. But on my very last bill that --
22 the current one, I'm not sure that I have been
23 properly credited, with the way that the bill was
24 worded and everything. And you just sort of give up
25 after a while over such a small amount. So I paid the

1 bill and, hopefully, it's taken care of.

2 But there's another thing that I was made
3 aware of during all of this terrible ordeal that
4 lasted from May the 2nd until just this last month.
5 And I guess I'm not finished yet, because I did get a
6 copy of it -- the whole file to the Securities
7 Exchange Commission because I had heard indirectly
8 that they were looking into the problem also, so I
9 sent that. They acknowledged the file and said they
10 would be back in touch, but I haven't heard from them
11 further.

12 Early on in this problem I was talking with
13 some relatives on a Saturday evening, and I was
14 telling them about the problem. And my great-nephew
15 was in the room and his father said, "Well, get Robert
16 to tell you all about it. He's been slammed." He
17 said, "What you need is a PIC freeze form." I said,
18 "Well, I never heard of such a thing." You have to
19 request it. And I wonder why is not the public made
20 aware that such a form exists so that we cannot have
21 all of this hassle?

22 I have spent hours and hours and hours on
23 the phone trying to get this resolved. And when you
24 get past 35 years old these things are a little bit
25 more difficult than you would imagine. And there are

1 many people who at my age don't pay that much
2 attention to their bill. And I really don't know why
3 I noticed it that day, but something just caused me to
4 check it more carefully.

5 Anyway, that's my story, and I hope
6 something can come out of it where we won't be slammed
7 anymore.

8 And does anybody ever check, like this
9 person who signed this form, does anybody ever check
10 and see where or how we got the form and is anything
11 done about his part in the business, too?

12 Thank you for your time.

13 **CHAIRMAN JOHNSON:** Thank you, Ms. Gordy.

14 There may be some questions.

15 **COMMISSIONER DEASON:** Ms. Gordy.

16 **WITNESS GORDY:** Yes.

17 **COMMISSIONER DEASON:** May I ask a question,
18 please? The form that was sent to you by certified
19 mail, that indicated your telephone number but it was
20 someone else's name, address and signature; is that
21 correct?

22 **WITNESS GORDY:** Absolutely.

23 **COMMISSIONER DEASON:** That sounds like that
24 was a fraudulent activity, would you agree with that?

25 **WITNESS GORDY:** Oh, absolutely. Absolutely,

1 the person's name, someone I have never heard of, and
2 address -- do you want the address?

3 COMMISSIONER DEASON: No, ma'am. As long as
4 it's in our files here at the Commission.

5 WITNESS GORDY: It's in our file. It's in
6 your file.

7 COMMISSIONER DEASON: Okay. When there's
8 fraudulent activities, it's something that certainly
9 concerns the Commission and it concerns, obviously,
10 the Attorney General's office. They are very much
11 interested in this and it's something they are taking
12 a look at.

13 WITNESS GORDY: Well, now, the Office of the
14 Attorney General does not have a copy of this file.

15 COMMISSIONER DEASON: Mr. Gross may want to
16 -- he perhaps can get that from our files or he may
17 want to get it directly from you, but he can address
18 that.

19 WITNESS GORDY: Okay.

20 COMMISSIONER DEASON: All right. Thank you,
21 ma'am.

22 CHAIRMAN JOHNSON: Ms. Gordy, you had raised
23 one issue, and I think it's a very important issue and
24 that was about the PIC freeze form.

25 WITNESS GORDY: Yes.

1 **CHAIRMAN JOHNSON:** And making sure that
2 consumers are aware of that. That's one thing -- the
3 lady sitting back there, Bev DeMello, she is -- heads
4 up our Consumer Affairs Division, and we are doing
5 more consumer outreach. I know one thing we're
6 hearing from customers is before they didn't have the
7 choice and confusion, but now they do have that, they
8 do need all of the help and the assistance they can
9 get. So we're going to do our best to try to reach
10 out more and provide information to customers to help
11 them make choices, even if it's just giving them our
12 1-800 number so that they can call us, and that we can
13 provide the needed assistance. But thank you very,
14 very much for your testimony.

15 **WITNESS GORDY:** Thank you.

16 **COMMISSIONER DEASON:** Let me ask our Staff a
17 question. Is there a requirement or a verification of
18 a telephone number to make sure it's consistent with a
19 name and address before a change is made in long
20 distance service?

21 **MR. MOSES:** Not to my knowledge, normally
22 whenever the companies input them into their computer,
23 that every once in a while they hit a key punch error
24 or something like that and put in the wrong number,
25 but usually there's a match up with the name on the

1 account.

2 **COMMISSIONER DEASON:** I guess my concern is,
3 is there anything in our rules which would prohibit
4 or, hopefully, would have someone catch an
5 inconsistency between a telephone number and person's
6 name that has signed a letter of authorization?

7 **MR. MOSES:** Yes. Depending on how -- if she
8 had initiated the call to the company, say, to the
9 local exchange company, there would be no further
10 verification. However, if there's another company
11 acting on her behalf, then there are verification
12 procedures they have to follow in the rules. One of
13 them is third-party independent verification, and
14 there are other methods also.

15 **COMMISSIONER DEASON:** Well, then, perhaps
16 that was a rule violation that occurred here in this
17 situation?

18 **MR. MOSES:** It's a possibility it's rule
19 violation or there's a possibility it was a mistake
20 when the person was putting the number down. There's
21 a lot of variables.

22 **COMMISSIONER DEASON:** Obviously, we have
23 this complaint on file, and we're going to look into
24 those possibilities. Thank you, ma'am.

25 **WITNESS GORDY:** Do you ever follow up so --

1 I actually would like to know what happened; if
2 anybody was penalized or anything?

3 **COMMISSIONER DEASON:** Yes, ma'am, we'll
4 provide that information. I'm getting some heads in
5 the back that are shaking yes.

6 **MR. SHERVE:** Thank you.

7 **Mr. Wilson.**

8 **JAMES C. WILSON, JR.**

9 appeared as a witness and, swearing to tell the truth,
10 testified as follows:

11 **DIRECT STATEMENT**

12 **WITNESS WILSON:** My name is James C. Wilson,
13 Jr. I live at 14C East 6th Court, Greenville, Florida
14 32331, 805-997-8591.

15 My slamming occurred last year. My bill
16 from Centel indicated long distance service -- this is
17 for the 16th of May of 1996 -- indicated long distance
18 carrier as Sprint. On the 16th of June Centel's
19 statement indicated long distance service of AT&T
20 Custom Service. This statement had Sprint charges on
21 it, and I paid those Sprint charges at that time.
22 There were no AT&T Custom Service's charges at that
23 time. On the 16th of July I got a statement, and it
24 said long distance carrier is AT&T Custom Services.
25 This statement had 0+ Dialing, Incorporated, charges

1 of \$146.49. The next month's statement on the 16th of
2 August indicated the long distance carrier as Sprint,
3 and this statement had some more 0+ Dialing charges,
4 additional charges of \$19.58. There was a total
5 charges of \$166.07 from 0+ Dialing.

6 In July I contacted Centel to see what was
7 going on. Centel said it had been switched, but they
8 would change it back, which they did. And it was
9 reflected on the next statement as a change. However,
10 they really didn't know anything about how it was
11 changed or why or by whom.

12 After talking to Centel, they gave me a
13 number of 0+ Dialing someplace in Texas. I contacted
14 0+ Dialing. They were acting as a collection agency
15 for another organization in Virginia. They would not
16 give me the address, telephone number or anything of
17 the organization in Arlington, which was -- and
18 incidentally, all of this was provided to Ms. DeMello.
19 I believe that's the lady that was here a while ago.
20 I sent her a letter on the 22nd of July, and
21 delineated all of this, these actions up to that time.

22 They -- 0+ Dialing referred me to or gave me
23 the name of the company as Long Distance Service
24 Company in Arlington, Virginia. I could not reach
25 them. I had no course to go to, to talk to anybody in

1 that organization. I asked O+ Dialing to provide me
2 with a copy of the authorization for the change. They
3 said they would; It might take a couple of weeks. I
4 waited and did not get any response whatsoever.

5 Eventually, after a couple of months, Centel
6 was in a position of harassing me and billing me every
7 month. And actually at one time, in November, I got a
8 service interruption notice.

9 COMMISSIONER GARCIA: Mr. Wilson, this was
10 after you had spoken with Ms. DeMello and you opened a
11 file here?

12 WITNESS WILSON: Yes.

13 COMMISSIONER GARCIA: And Centel was still
14 harassing you about the bill?

15 WITNESS WILSON: Well, in November that
16 letter to her was written in July, the 22nd of July,
17 and I got the service interruption notice in November,
18 the 12th of November. And I called him and talked to
19 him about it, and they said there would not be any
20 interruption of service. However, the point is that
21 the local provider is put in the position of being a
22 collector for all of these other garbage outfits, you
23 know, regardless of who it is. Even the billing
24 procedure constitutes a harassment. And in addition
25 to that, they were charging me interest for the

1 payment that had not been made.

2 Eventually, I got to Centel and initiated a
3 letter on the 16th of September which formally told
4 Centel -- and this is their form -- told them not to
5 ever make any changes, which, in effect, says I have a
6 protected long distance carrier provision. I got that
7 recorded with Centel. That gives them the authority
8 to not do anything. Tells them not to do anything. I
9 went to the State Attorney's Office in Monticello and
10 talked to Francisco Venus, I believe that's his name,
11 and asked him opinions about what I should do and so
12 forth. I asked him about not making payment, and I
13 was concerned about credit rating and a few things
14 like this. He said not to make the payments.

15 I eventually got to O+ Dialing, a person
16 down there, and they started negotiating a settlement.
17 And they started at 30% of the bill, 40% of the bill,
18 50% of the bill and I think that I finally -- they got
19 down to 65% of the bill and I agreed to pay that,
20 mistake or not. But I went back to the State
21 Attorney's Office then to make sure that if I did pay
22 this it would not constitute an acknowledgement of a
23 valid change in the service. And he said it would
24 not.

25 So I went ahead with the payment and sent it

1 to them. However, 0+ Dialing did not advise Centel,
2 and for the next four months Centel continued to bill
3 me. First of all, it was the full amount and then it
4 was a reduced amount. But they never got any
5 documentation from 0+ Dialing that there had been a
6 settlement or an agreement.

7 Finally, I told Centel that they better go
8 to 0+ Dialing, get the thing resolved, and if
9 necessary, let them turn it over to a collection
10 agency and I'd fight that. Well, that was the end of
11 it. I never heard anymore. They dropped it from the
12 bill. It was all cleared up. And, in effect, I went
13 back to sleep, you know.

14 Now, in November I did get a response from
15 the Public Service Commission, one Nancy Pruitt. This
16 was in response to my letter that I had sent in July.

17 And they said, in effect, that they were
18 looking into it, and that they were going to try to
19 change some rules and things of that nature.

20 COMMISSIONER GARCIA: But that was the only
21 help you got from the Florida Public Service
22 Commission, a letter from Nancy Pruitt?

23 WITNESS WILSON: Yes. That's all I've ever
24 heard.

25 COMMISSIONER GARCIA: Okay. Well, I need

1 you to get with Ms. DeMello and discuss your case at
2 length with her, because I think we dropped the ball
3 there. If you contacted us in July and were sitting
4 alone negotiating with this company without some type
5 of help from us I think we dropped the ball there. So
6 I'd like you to sit down with Ms. DeMello and make
7 sure our procedures were followed on because you
8 should not have been having an argument with Centel
9 all along, and you shouldn't have been getting an
10 interest charged on having that bill. So if you
11 could, I'd really appreciate that.

12 **WITNESS WILSON:** I'll do that. Be glad to.

13 **COMMISSIONER DEASON:** Sir, did you ever
14 receive a copy of the so-called letter of
15 authorization?

16 **WITNESS WILSON:** Absolutely not. I have
17 never received anything from them. They haven't got
18 guts enough to send it here.

19 Essentially, that's my story. But I'd like
20 to talk to you about concerns. First of all, it's a
21 little bit distasteful to me to have a local telephone
22 provider being a bill collector for the subsidiaries.
23 I think that basically is wrong. It needs to be
24 looked at.

25 Multiple tiering, the first indication that

1 I had were that the charges were being -- long
2 distance was changed to AT&T Service, Incorporated.
3 And then whether they peddled this authorization to an
4 outfit in Arlington, Virginia, and that outfit in
5 Virginia insulates themselves from any customer by
6 having a collection agency, 0+ Dialing in Texas handle
7 it and then turn it to Centel for collection.
8 Multiple tiering; it's an absolutely poor procedure.
9 It's something that should not be allowed. If I deal
10 with AT&T, I expect to deal with them, not through two
11 or three other tierings of companies.

12 The selling or leasing of these rights
13 should not be allowed. If a company assumes
14 responsibility for a long distance service, they
15 should not be allowed to peddle it. It's not a
16 mortgage that you're going to sell from one mortgage
17 house to another mortgage house.

18 Recently we have seen and heard a lot about
19 deregulation of the electric industry. And I am very
20 apprehensive about the same things happening with the
21 deregulation of the electric industry. We have seen
22 people out there, or companies or conglomerates,
23 buying rights to the power grid today. And they're
24 going to turn right around and peddle it to somebody
25 else. And the blooming rates are going to go up for

1 the majority of this country. And the Public Service
2 Commission, I think, is obligated to look and take
3 lessons, learn from what has happened in the telephone
4 business.

5 Thank you.

6 **CHAIRMAN JOHNSON:** Thank you. Any other
7 questions?

8 **MR. SHERVE:** Thank you, sir.

9 **CHAIRMAN JOHNSON:** Mr. Wilson, we'll have a
10 Staff person there to meet you. Thank you, sir.

11 **MR. SHERVE:** Mr. Robert Flint.

12 - - - - -

13 **ROBERT C. FLINT**

14 appeared as a witness and, swearing to tell the truth,
15 testified as follows:

16 **DIRECT STATEMENT**

17 **WITNESS FLINT:** Greetings. Name is Robert
18 Flint. I live at 3424 Old St. Augustine Road,
19 Tallahassee, Florida.

20 In around June my wife said that there was a
21 phone call asking why we had switched phone services.
22 And I said, "Well, it must have been a mistake because
23 we have not switched." We use WilTel, which is
24 Lifeline Network, and they donate part of their fee to
25 charitable enterprises, and I had planned to stay with

1 them.

2 However, I got a July phone bill from
3 Sprint-Centel which included \$156.78. In the fine
4 print it said, "You're long distance carrier is AT&T."
5 I said, "No, it isn't." So I called them up.
6 Sprint-Centel said they would switch them back, which
7 they did. And I said, "Well, you know, I don't like
8 paying this. I'll be happy to pay it if you can tell
9 me that AT&T is going to pay the phone company that I
10 contracted with." And they said, "Well, you have to
11 pay it or they -- I said, "What happens if I don't pay
12 it?" They say they'll shut off the phone. So I paid
13 it with protest. And I filed a complaint with Bob
14 Crawford, the Department of Agriculture.

15 **COMMISSIONER GARCIA:** Let me ask you before
16 you get too far. You filed a complaint with the
17 Secretary Crawford's department. They actually opened
18 a file with you, and they did the complaint or did
19 they refer you to the PSC?

20 **WITNESS FLINT:** They apparently referred me
21 to you because this was a June letter from the
22 Department of Agriculture, Bob Crawford, and I got a
23 letter from the PSC, a Douglas Martin, on July 7th.
24 And nothing else until I got the notice of this
25 hearing from the PSC.

1 After I did file that complaint, I did get a
2 phone call from AT&T who said that they didn't know
3 how it happened, et cetera, and apologized and said
4 they'd try to clear it up. Well, they sent me a \$5
5 certificate. Well, that didn't cover the \$156.78.

6 **COMMISSIONER GARCIA:** Let me ask you before
7 you move on from there. The \$150 was much more
8 expensive than you were normally used to paying for or
9 you simply wanted to be able to credit to the
10 charities that Lifeline network typically --

11 **WITNESS FLINT:** My request was that I'd be
12 happy to -- well, I did pay it under protest which was
13 a mistake when I thought about it, and since they are
14 not going to send that money from AT&T to the people
15 they contracted with --

16 **COMMISSIONER GARCIA:** Right.

17 **WITNESS FLINT:** -- then I said I wouldn't
18 pay it. And I didn't, on the last bill, and so I'm
19 now dunned again for -- I just left that 156.78 out of
20 the last bill. And it's on the current bill that I
21 got.

22 And then, postmarked August 11th from a
23 Chantilly, Virginia, I get a letter from MCI welcoming
24 me to their long distance service. And I think this
25 is ridiculous. However, the current bill did not show

1 that they had switched or slammed me again, so I'm
2 still on the one that I asked for. The gentlemen over
3 there, I thought I heard him say that you go up to 90
4 days if you had been slammed, you don't have to pay
5 that. How do you work that?

6 **MR. MOSES:** That's under the proposed rules,
7 that if you were slammed and you were billed for
8 services, then the unauthorized carrier would not be
9 able to collect that from you. That's the total
10 charge, not just rerated.

11 **COMMISSIONER GARCIA:** Let me make sure you
12 understand that's a proposed rule; you can't put that
13 into effect through self-help.

14 **WITNESS FLINT:** Well, I'm going to continue
15 to withhold that amount.

16 **COMMISSIONER GARCIA:** Can I ask you a favor?

17 **WITNESS FLINT:** I'm going to write AT&T and
18 say, "If you want to pay that money to the network I
19 contracted with, that's fine."

20 **COMMISSIONER GARCIA:** Just in case, I'd
21 appreciate it if you could meet with our Staff so that
22 you don't get yourself into a worse tangle with your
23 local company. If you could talk to our Staff before
24 you leave so you can open a file with us so they can
25 help you. I know you've already contacted them, but

1 I'd like you to contact them directly and make sure
2 that we've got a record of this. If you open a file
3 with us, your local phone company will not bill you
4 for the amount that is in dispute, and you don't have
5 to pay them. Okay?

6 **WITNESS FLINT:** Well, they didn't --

7 **COMMISSIONER GARCIA:** At least not until the
8 dispute is resolved.

9 **WITNESS FLINT:** They didn't shut off the
10 phone, but after I paid -- didn't pay the \$156.74, or
11 whatever, the only balance was \$10.74 that I sent in
12 for this last bill. But --

13 **MR. MOSES:** Just to clarify what the current
14 rules would require is they would require the
15 unauthorized carrier to rerate your service to the
16 same rates as your previous carrier. So if you were
17 with WilTel, AT&T would be required to rerate your
18 calls so you wouldn't be charged any more than what
19 you were charged before. That's the current rules.

20 **WITNESS FLINT:** I don't find that
21 acceptable. What I would find acceptable is if AT&T
22 would send the money that I've paid or that they
23 received, that they send that to the carrier with
24 which I contracted for the service.

25 **COMMISSIONER DEASON:** Let me ask, is there

1 an AT&T representative in the audience? I guess
2 there's not. They don't think these hearings are
3 important. All right.

4 **WITNESS FLINT:** Who do you wish me to make
5 contact with?

6 **CHAIRMAN JOHNSON:** Yes, sir. The gentlemen
7 in the blue. Thank you, sir.

8 **MR. SHERVE:** Thank you, sir.

9 Mr. Ochshorn.

10 - - - - -

11 **BENJAMIN OCHSHORN**

12 appeared as a witness and, swearing to tell the truth,
13 testified as follows:

14 **DIRECT STATEMENT**

15 **WITNESS OCHSHORN:** I'm an attorney at
16 Florida Legal Services, and I'm just here to help out,
17 if I can, a bit. I'm starting to do consumer law now
18 and this is in the form of a public comment. I'm
19 leaving the heavy lifting to Public Counsel and the
20 Attorney General. They get to do the work in this
21 case.

22 I'd like to commend the Commission for, you
23 know, the attention you're giving to this issue. What
24 I'm learning about it is that it seems kind of like
25 the Wild West. I mean, in our latest local phone

1 bills, you know, usually we throw out the stuff that
2 comes with it, but Sprint says that they did a survey
3 of their consumers in Florida who have switched local
4 toll carriers, and they discovered that 39% of them
5 had no idea their service had been switched. Maybe
6 the percentage is a whole lot different for other
7 kinds of toll carriers. I kind of doubt it.

8 Last week the US Senate Committee that
9 oversees communications held a hearing on slamming and
10 FCC Commissioner Susan Ness testified and started off
11 her testimony by noting that the Chairman of the
12 Commission who called the hearing had had his service
13 slammed.

14 I guess I look at this kind of like from a
15 lawyer's point of view, and the law in this area which
16 you can -- the responsibility for it is largely on the
17 Federal Communications Commission and the phone
18 companies rather than the PSC. It is really deficient
19 compared with how fraudulent activities are handled
20 generally under Florida law. And we think that's a
21 big reason why there's the prevalence of slamming that
22 there is.

23 There was a district court case that I noted
24 in a written comment that I sent in about a month
25 ago -- it's in the record -- that I invite you to

1 read, from the Southern District of Florida, which
2 held that basically local governments can take
3 whatever consumer protection measures they feel are
4 necessary to protect consumers of even long distance
5 service. And that the Federal Communications
6 Commission's jurisdiction in this matter is limited to
7 setting effective rates and charges, but that's
8 because the FCC regulates here, that doesn't limit
9 what a local government can do as far as consumer
10 protection. And we think that your proposed rule is
11 in line with this decision, and, in fact, goes beyond
12 what the FCC offers to do, and we want to commend you
13 on that.

14 We'd like to share with you a little bit of
15 knowledge that we do have about other kinds of
16 consumer laws that we think would be helpful here.

17 One is that consumer protection laws
18 generally provide that in order to enter into a
19 contract you have to follow certain consumer
20 protection rules. And if you don't follow them, then
21 the contract is unenforceable, and, at least,
22 voidable. That means, for example, that if somebody
23 has been slammed, that they can't have their phone
24 service disconnected if they bring that up, and, in
25 fact, their service has been slammed.

1 The Florida Telemarketing Act, which doesn't
2 apply to activities regulated by the Public Service
3 Commission, provides that for the activities under
4 that Act, unless a contract is entered into pursuant
5 to those requirements, then the contract is void and
6 unenforceable. And we think that that's one thing
7 that you need to consider here. We'd submit to you
8 that that makes slamming a whole different issue for
9 the companies that are doing it. It changes it from a
10 public relations issue to an issue that has to do with
11 entering into valid agreements, which is something the
12 companies like to do, and so that's why it's there.

13 The common law also treats it this way. If
14 you enter into a contract under false pretenses, under
15 deception, the contract is voidable and unenforceable.
16 If a contract is entered into that's an illegal
17 contract in some way because some part of it is
18 prohibited by law, then absent some declaration by the
19 state agency or state legislature, the contract is
20 considered void.

21 In the case of slamming, where you have that
22 the service continues and the person can be charged an
23 amount equal to what they paid prior to that and all
24 of that, you have a situation where a contract that's
25 illegal, basically in violation of the rule, is still

1 a valid contract. And it just really retards efforts
2 at reducing the problem.

3 A second comment, issue, in consumer
4 protection laws that I found is that there be some
5 reliable consumer verification of changes; in this
6 case changes in telecommunications service. There
7 needs to be some definite way that people can know
8 that their service has been changed. This is also
9 common in many other kinds of consumer protection
10 laws. In a case like this, with communication
11 service, we'd agree with what has been said publically
12 by the Public Counsel and Attorney General, that some
13 kind of written verification should be required. We
14 applaud you that it's one of your options. But you
15 also list several other options that don't require
16 written verification. And we question whether people
17 will really know that their service has been changed.
18 And that's really the key thing. At least it doesn't
19 appear that you should give particularly great
20 deference to have the approach that the Federal
21 Communications Commission has given to this issue.
22 They haven't, obviously, done enough, and I suggest
23 you just do what you think would be best.

24 And a final issue is that people do get some
25 disclosure of the terms of their service at a

1 reasonably early point so that they can make some
2 informed decision about having their service
3 transferred. And our particular concern has to do
4 with termination provisions. Especially because
5 there's been discussions among some telecommunications
6 carriers of treating different customers differently
7 based on their credit rating or some other criteria
8 unrelated to whether they paid the bill or not. So
9 that kind of thing we think you should look at.

10 Finally, we'd suggest that outside of this
11 hearing that you consider promulgating some general
12 rules similar to the state's deceptive and unfair
13 trade practices rule that would allow the Commission
14 at least to act when it sees fraudulent activities
15 occur.

16 I'm not your counsel, but I think you have
17 legal authority to do that. If some of the phone
18 companies want to claim that you don't have
19 jurisdiction to pass such a rule, then my suggestion
20 is let them; but I kind of doubt that they would, at
21 least publicly.

22 We think this is important because there's
23 going to be all kinds of deceptive activities that go
24 on in this area and in most other businesses in
25 Florida which are regulated. There's very few

1 unregulated businesses in Florida. There's a
2 combination of agency regulatory oversight of the
3 companies, plus the Attorney General can always come
4 in under the Deceptive and Unfair Trade Practices Act,
5 and we ask that you give yourself similar power.

6 Also in the local past phone bill we got, we
7 all got this -- something called a "Sprint Internet
8 Passport," and it says that if you want to get on the
9 Internet it says, quote, "All it takes is a free
10 Sprint Internet passport CD ROM." There's no mention
11 of any charges. The only indication that you might
12 have to pay anything is that there's something at the
13 end that says call whatever to get your first month of
14 Internet access free, which suggests that in future
15 months you might have to pay. Would this be a
16 deceptive advertisement under the state UDEP law? I
17 think so. And it's just one of many kinds of things
18 that go on that you probably want to have the power to
19 be able to address.

20 What you may want to do -- I realize this is
21 going to be a formal hearing for a while, but if you
22 decide you want to do more, you may just make that a
23 finding that you do want to do more and refine your
24 rule in a less formal process, more like how other
25 agencies pass rules. If you have had the hearings and

1 gotten the public testimony, there may not be a need
2 to treat it this way. And it might be a way to (a),
3 shorten the time frame if you're going to add more
4 things to the rule, and also provide a very different
5 process for taking input from all sides. Thank you.

6 **CHAIRMAN JOHNSON:** Thank you. Any
7 questions? Thank you very much for your testimony.
8 Is that a written -- do you have a written account of
9 your testimony?

10 **WITNESS OCHSHORN:** Yes. I think it's in the
11 record. It's dated September 17th, and as a result of
12 that, we have been getting some things from here.

13 **CHAIRMAN JOHNSON:** Okay. Thank you very
14 much.

15 **WITNESS OCHSHORN:** Okay.

16 **COMMISSIONER GARCIA:** I just wanted to let
17 you know that we -- one of the reasons that this rule
18 has taken so long to get out of here is that our Staff
19 tried time and again to work with the companies to
20 come up with something that was agreeable to all of
21 the parties and, unfortunately, we never even got near
22 there.

23 **WITNESS OCHSHORN:** You're not going to be
24 able to do it. I'll just tell you the companies have
25 been fighting in courts for years that the consumer

1 protection laws don't apply to them. I encourage you
2 to read the Lip Con (ph) decision. You just need to
3 go forward.

4 **CHAIRMAN JOHNSON:** Thank you.

5 **WITNESS OCHSHORN:** Okay.

6 **MR. SHEREVE:** Thank you.

7 Chris Sands.

8 - - - - -

9 **CHRIS SANDS**

10 appeared as a witness and, swearing to tell the truth,
11 testified as follows:

12 **DIRECT STATEMENT**

13 **WITNESS SANDS:** Good evening. My name is
14 Chris Sands, and I'm a student at FSU. My address is
15 982 West Brevard Street, Apartment 818, here in
16 Tallahassee 32304.

17 I was slammed by MCI back in February. My
18 first contact with MCI was I received my "Welcome to
19 MCI-1" package in the mail, and I immediately called
20 them and told them I had never switched my phone
21 service. I had just recently switched to Sprint.
22 They had called and they had spoken to one of my
23 roommates. They received my name and my roommates'
24 names from Florida State University without any
25 authorization.

1 They spoke with one of my roommates and he
2 was confused by what he was told. He was told simply
3 he would be receiving phone cards in the mail. And he
4 said "Oh, okay, that's fine." And so MCI took it upon
5 themselves to change my long distance. So I called
6 them immediately. Told them I had not changed the
7 service, did not want their service; wanted them to
8 switch it back, and was not going to pay them
9 anything. I received a bill from them, which to me
10 seemed very curious, because usually I received only a
11 bill from Centel, regardless of who my long distance
12 carrier is, which I immediately again called them and
13 told them I wasn't going to pay them anything, told
14 them I didn't have a contract with them, and threw the
15 bill in the trash.

16 The next notification I received from them
17 was this -- the original bill was for approximately
18 \$20, I think \$19.50. I received this notice of my
19 mandatory lawful notification from a collection
20 service in California for \$47.50. I went through a
21 long battle for several months with Centel, and to
22 their credit they were very accommodating.

23 I called them every month when I received a
24 bill and said, "I'm not paying these charges. Take
25 them off the bill." I had them change my phone

1 service back. They told me about the PIC freeze form.
2 I filled out a PIC freeze form. So I took as much
3 action as I could.

4 I wrote back to the collection agency and I
5 wrote to several people in the MCI organization and
6 told them, sent them copies of the letter to the
7 collection agency. And my arguments were these: I
8 was never billed for the amount that they had sent to
9 the collection agency. I have never contracted with
10 MCI in the first place. The charges that they were
11 billing me for were already billed through my local
12 telephone bill through Centel. Also, that MCI is
13 required to reschedule the fees, which they never did.

14 At the time I was under a three-month
15 agreement with Sprint, during which time I would not
16 be charged for any calls within the state of Florida,
17 and they were trying to charge me their rates. Also,
18 MCI made no attempt at all to deal with me. They
19 never called me, they never contacted me to negotiate
20 or even to address the fact that I supposedly owed
21 them money.

22 I later called the collection agency to see
23 if they had received my letter. They said the person
24 who was working on the case was no longer working
25 there, but the account balance was zero. And I was

1 ready to forget it all.

2 And I causally mentioned it to Dick Durbin,
3 and he suggested -- he works for the Public Service
4 Commission -- he suggested I file a complaint. At
5 that point it had just been an annoyance. I hadn't
6 really been -- put out any money. I think I might
7 have paid \$5 total, and \$50 to a phone company is not
8 a lot of money. And I think they probably decided it
9 wasn't worth trying to pursue it.

10 But later that same week I got another call
11 from MCI. And they didn't asked who lived there, they
12 just said, "Are you someone who is authorized to
13 change this phone service?" And I said -- actually, I
14 just hung up on them. I was too angry to say anything
15 polite. But I received a similar call from AT&T. and
16 I said to the woman, "If you would like to speak with
17 me, you can call and ask for me by name. But if
18 you're just going trolling for people to change their
19 phone service, I have nothing to say to you," and I
20 hung up on her.

21 And I did eventually receive a letter from
22 MCI. They claimed that they had legally changed my
23 phone service; that they had obtained verification
24 from my roommate and they name him here. They said
25 they had verified his identity and they listed a birth

1 date, which I assume is his birth date. It's
2 certainly not mine. And they list my Social Security
3 number. All of this information is readily available
4 from the information that FSU supplies to its
5 corporate partners. So I don't know what research
6 they did.

7 My issue is one -- and I looked over the
8 proposed information here, the proposed law, I guess.
9 I don't see a definition for what is a customer? And
10 my roommate is not the customer when my name is on the
11 phone bill, and when my credit history is affected by
12 whether the phone bill is paid or not. So I think
13 there needs to be some clarification. I'm not sure if
14 it's somewhere else in there.

15 Also the verification process -- again, I
16 guess I got lost in the legalese -- I would like to
17 see a verification process where the verifier is held
18 accountable. The fact that they say they went to a
19 third party to verify this information and the
20 information is inaccurate means that I shouldn't be
21 held accountable for this; the verifier should. So
22 this \$47.50, they can bill the person who supposedly
23 verified my identity and leave me alone.

24 That's pretty much all I have to say. Any
25 questions?

1 **CHAIRMAN JOHNSON:** Any questions of
2 Mr. Sands?

3 **COMMISSIONER GARCIA:** I just wanted to thank
4 you, Mr. Sands. And Mr. Durbin is right, you should
5 go ahead and file that so that we can look into that.

6 **WITNESS SANDS:** I have.

7 **COMMISSIONER GARCIA:** Great. Thank you.

8 **CHAIRMAN JOHNSON:** Thank you very much for
9 your testimony.

10 Are there any other witnesses?

11 **MR. BECK:** Commissioner, Mr. Sands was the
12 last speaker to sign up ahead of time.

13 **CHAIRMAN JOHNSON:** Okay. Are there any
14 other witnesses in the audience that would like to
15 testify that did not sign up to testify tonight?

16 (No response)

17 Seeing none, I'd like to thank you all for
18 coming out and participating in our process. And
19 remember that your comments and your statements will
20 be made a part of our official record, and we can rely
21 upon that when we make our final decision.

22 Staff, could you go over the schedule as to
23 when we will be making our decision?

24 **MS. CALDWELL:** Yes. Rulemaking is governed,
25 as I said earlier, by Section 120.54, Florida

1 Statutes. This section describes the process by which
2 an agency may adopt rules. Part of that process
3 includes these workshops, a proposal phase, comments
4 and a hearing phase and adoption of the rules.
5 Workshops will be held in additional cities including
6 on November the 20th of this year in Jacksonville.
7 Other noteworthy events in the rulemaking are on
8 December 16th of 1997, the rules will be proposed by
9 the Commission at their agenda conference. On January
10 23rd, 1998, interested persons must file their
11 comments. On February 6th, 1998, the full Commission
12 will hold a rule hearing taking evidence and sworn
13 testimony and witnesses may be cross examined. On
14 April the 7th, final rules will be adopted at the
15 Commission agenda conference, and the rules will
16 become effective sometime in May of 1998.

17 CHAIRMAN JOHNSON: Thank you very much. Are
18 there any other concluding matters? Seeing none, this
19 hearing is adjourned. Thank you very much.

20 (Thereupon, the workshop concluded at
21 8:37 p.m.)

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1 STATE OF FLORIDA)
2 : CERTIFICATE OF REPORTER
3 COUNTY OF LEON)

4 I, JOY KELLY, CSR, RPR, Chief, Bureau of
5 Reporting Official Commission Reporter,

6 DO HEREBY CERTIFY that the Rule Development
7 Workshop in Docket No. 970882-TI was heard by the
8 Florida Public Service Commission at the time and
9 place herein stated; it is further

10 CERTIFIED that I stenographically reported
11 the said proceedings; that the same has been
12 transcribed under my direct supervision; and that this
13 transcript, consisting of 84 pages, constitutes a
14 true transcription of my notes of said proceedings.

15 DATED this 24th day of October, 1997.

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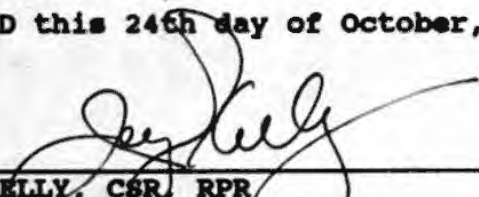
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