

**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.  
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: DOCKET NO. 970882-TI



**FIRST DAY - MORNING SESSION**

**VOLUME 1**

**Pages 1 through 151**

**PROCEEDINGS:           RULE HEARING**

**BEFORE:**               **CHAIRMAN JULIA L. JOHNSON**  
                              **COMMISSIONER J. TERRY DEASON**  
                              **COMMISSIONER SUSAN F. CLARK**  
                              **COMMISSIONER JOE GARCIA**  
                              **(Teleconferencing from Miami)**  
                              **COMMISSIONER E. LEON JACOBS, JR.**

**DATE:**                   **Friday, February 6, 1998**

**TIME:**                   **Commenced at 9:40 a.m.**

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

**REPORTED BY:**         **JOY KELLY, CSR, RPR**  
                              **Chief, Bureau of Reporting**

DOCUMENT NUMBER-DATE

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FPSC RECORDS/REPORTING

1 **APPEARANCES:**

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4 and **JOHN R. MARKS**, Katz, Kutter, Haigler, Alderman,  
5 Bryant & Yon, P.A., 106 East College Avenue,  
6 Tallahassee, Florida, appearing on behalf of **BellSouth**  
7 **Telecommunications.**

8                   **BENJAMIN FINCHER** and **MONICA BARONE**, 3100  
9 Cumberland Circle, Atlanta, Georgia, 30399, and  
10 **EVERETT BOYD**, Ervin, Varn, Jacobs & Ervin, 305 South  
11 Gadsden Street, Tallahassee, Florida, appearing on  
12 behalf of **Sprint Communications Company, Limited**  
13 **Partnership.**

14                   **CHARLES REHWINKEL**, 1313 Blairstone Road,  
15 Tallahassee, Florida 32302, appearing on behalf of  
16 **Sprint-Florida, Incorporated.**

17                   **J. JEFFRY WAHLEN**, Ausley & McMullen, Post  
18 Office Box 391, Tallahassee, Florida 32302, appearing  
19 on behalf of **AllTel Florida.**

20                   **MARSHA E. RULE**, AT&T Communications of the  
21 Southern States, Inc., 101 East College Avenue, Suite  
22 700, Tallahassee, Florida 32301-1509, appearing on  
23 behalf of **AT&T Communications of the Southern States,**  
24 **Inc.**

25

1 **APPEARANCES CONTINUED:**

2 **RICHARD D. MELSON**, Hopping Green Sams and  
3 **Smith**, Post Office Box 6526, Tallahassee, Florida  
4 32314, and **MARSHA WARD**, 780 Johnson Ferry Road, Suite  
5 700, Atlanta, Georgia 30342, appearing on behalf of  
6 **MCI Telecommunications Corporation**.

7 **PATRICK K. WIGGINS**, Wiggins & Villacorta,  
8 P. A., Post Office Drawer 1657, Tallahassee, Florida  
9 32302, appearing on behalf of **BCI Corporation** and  
10 **Excel Telecommunications, Inc.**

11 **DONNA CANZANO**, Wiggins & Villacorta, P. A.,  
12 Post Office Drawer 1657, Tallahassee, Florida 32302,  
13 appearing on behalf of **Intermedia Communications**.

14 **JOSEPH MCGLOTHLIN** and **VICKI GORDON KAUFMAN**,  
15 McWhirter, Reeves, McGlothlin, Davidson, Rief and  
16 Bakas, 117 South Gadsden Street, Tallahassee, Florida  
17 32301, appearing on behalf of the **Florida Competitive**  
18 **Carriers Association, LCI International Telecom**  
19 **Corporation and Telecommunications Resellers**  
20 **Association**.

21 **SUZANNE SUMMERLIN**, 1311 Paul Russell Road,  
22 Tallahassee, Florida, appearing on behalf of **FURST**  
23 **Group, Inc. and Supra Telecommunications & Information**  
24 **Systems, Inc.**

25

1 **APPEARANCES CONTINUED:**

2 **CHARLES J. BECK**, Deputy Public Counsel,  
3 Office of Public Counsel, 111 West Madison Street,  
4 Room 812, Tallahassee, Florida 32399-1400, appearing  
5 on behalf of the Citizens of the State of Florida.

6 **DENIS A. DEAM**, Office of Attorney General,  
7 PL-01, The Capitol, Tallahassee, Florida 32399-1050,  
8 appearing on behalf of the Office of the Attorney  
9 General.

10 **KIM CASWELL**, One Tampa City Center, Tampa,  
11 Florida 33601, appearing on behalf of GTE Florida  
12 Incorporated.

13 **FLOYD SELF**, Messer, Caparello & Self,  
14 215 S. Monroe Street, Tallahassee, Florida 32399,  
15 appearing on behalf of WorldCom.

16 **RONALD MARLOWE** and **GAVIN KAHN**, 855 SW 78th  
17 Avenue, Plantation, Florida 33324, appearing on behalf  
18 of American Telnet.

19 **MARCY GREEN**, Swidler & Berlin, 3000 K Street NW,  
20 Suite 300, Washington, D.C. 2007-5116, appearing on behalf  
21 of State Communications.

22 **MARK HERRON**, Akerman Law Offices, 216 S. Monroe  
23 Street, Tallahassee, Florida 32301, appearing on behalf  
24 of BellSouth BSE and BellSouth Long Distance.

25

1 **APPEARANCES CONTINUED:**

2                   **DIANA CALDWELL**, Florida Public Service  
3 Commission, Division of Appeals, 2540 Shumard Oak  
4 Boulevard, Tallahassee, Florida 32399-0862, appearing  
5 on behalf of the Commission Staff.

6

7 **ALSO PRESENT:**

8                   **RICK MOSES**, FPSC Division of Communications

9                   **KATHY LEWIS**, FPSC Division of Regulatory

10 Research and Review

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## I N D E X

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1 representing the Furst Group and Supra  
2 Telecommunications & Information Systems.

3 **MS. CASWELL:** Kim Caswell for GTE Florida.

4 **MR. MCGLOTHLIN:** Joe McGlothlin, of  
5 McWhirter, Reeves, McGlothlin, Davis, Rief and Bakas.  
6 I appear for the Florida Competitive Carriers  
7 Association. I also appear for two entities who have  
8 filed comments in this proceeding, LCI International  
9 Telecom Corporation and the Telecommunications  
10 Resellers Association. I want to make an appearance  
11 for Vicki Gordon Kaufman of my firm on behalf of FCCA.  
12 When the Commission takes the preliminary matters  
13 Mr. Kaufman will present a motion.

14 **MR. WIGGINS:** Patrick Wiggins, law firm of  
15 Wiggins and Villacorta, appearing on behalf of BCI  
16 Corporation and Excel Telecommunications, Inc.

17 **MS. CANZANO:** Donna Canzano also of the  
18 Wiggins and Villacorta law firm, representing  
19 Intermedia Communication.

20 **MR. MELSON:** Richard Melson of Hopping Green  
21 Sams & Smith and Marsha Ward of MCI appearing on  
22 behalf of MCI.

23 **MS. BARONE:** Monica M. Barone representing  
24 Sprint Communications Company Limited Partnership.

25 **MR. BOYD:** Everett Boyd of the Ervin, Varn &

1 Jacobs & Ervin law firm, also on behalf of Sprint  
2 Communications Company Limited Partnership.

3 MR. MARLOW: Ron Marlowe and Gavin Kahn on  
4 behalf American Telnet.

5 MS. GREEN: Marcy Green of Swidler & Berlin,  
6 on behalf of the State Communications.

7 CHAIRMAN JOHNSON: I'm sorry. Could you  
8 repeat your name again?

9 MS. GREEN: Marcy. M-A-R-C-Y, I've got a  
10 cold, I apologize. Green, like the color.

11 CHAIRMAN JOHNSON: Thank you.

12 MS. RULE: Marsha Rule, AT&T.

13 MR. HERON: Mark Herron on behalf of  
14 BellSouth BSE and BellSouth Long Distance.

15 MR. SELF: Floyd Self of the law firm  
16 Messer, Caparello & Self, P. O. Box 1876, Tallahassee,  
17 Florida. I'm entering a limited appearance on behalf  
18 of WorldCom, Inc. with respect to the FCCA and  
19 BellSouth motion to sever.

20 MR. WAHLEN: Jeff Wahlen of the Ausley and  
21 McMullen law firm, P. O. Box 391, Tallahassee, Florida  
22 32302, appearing on behalf of ALLTEL Florida, Inc.

23 MR. REHWINKEL: Charles J. Rehwinkel on  
24 behalf the Sprint-Florida, Incorporated.

25 MS. CALDWELL: Diana W. Caldwell, Florida

1 Public Service Commission.

2 CHAIRMAN JOHNSON: Okay. Are there any  
3 preliminary matters?

4 MS. CALDWELL: Yes. We've had two motions.  
5 One is a Motion to Strike portions of Public Counsel's  
6 exhibit filed by Supra Telecommunications &  
7 Information Systems.

8 MS. SUMMERLIN: Commissioners, I'm here  
9 representing Supra Telecommunications & Information  
10 Systems. This motion to strike was filed on Supra's  
11 behalf. It's a very simple motion, basically, and it  
12 goes to fundamental fairness and due process.

13 At the beginning of this docket, when you  
14 initially started it, you decided to combine two very  
15 different kind of proceedings: One was a rulemaking  
16 proceeding, and one was an investigation into  
17 slamming. At that point in time I did not represent  
18 Supra, but I had conversations with the Staff and  
19 Public Counsel on my concerns, and I think you had  
20 filings from various parties that went to concerns  
21 about what this docket would entail.

22 Obviously, there were a lot of concerns  
23 about, you know, would there be an enforcement action  
24 at the end of this if things were discovered in the  
25 process of investigating slamming. Because obviously

1 there might be uncovering of new complaints during the  
2 process of the case.

3 My -- assurances were made to me at the  
4 time, when I was expressing those concerns, that the  
5 Commission would not be taking any kind of enforcement  
6 action in this proceeding. That all that would happen  
7 here is that there would be a full investigation of  
8 slamming, and there would be rulemaking changes that  
9 were proposed by Staff. And then other parties, like  
10 Public Counsel and the Attorney General, would propose  
11 possible changes, and anyone else involved would have  
12 the opportunity to do that. And at the end of the  
13 proceeding, theoretically there would be a new set of  
14 rules that would regulate the industry. That's all  
15 well and good. And that's fine. But unfortunately on  
16 January 20th the Commission made a decision to show  
17 cause a particular entity: Supra Telecommunications &  
18 Information Systems.

19 The Commission had every right to do that.  
20 I'm not saying the Commission didn't, although one  
21 could say that it kind of violated the understanding  
22 that I had of this proceeding at the beginning.

23 However, the problem is the Commission has  
24 every right to show cause somebody. But when you have  
25 a proceeding going on where you're going to accept

1 testimony and documentary evidence in the nature of  
2 customer complaints, written customer complaints, that  
3 go to an entity that you have already decided to show  
4 cause, this raises a very fundamental concern on my  
5 part.

6           Supra Telecommunications is now put in the  
7 position by the Commission in a separate proceeding of  
8 defending itself against the Order to Show Cause.  
9 They have been put at risk. The potential of having  
10 their certificate cancelled; the potential of having  
11 to pay close to half a million dollars in fines as a  
12 result of alleged complaints, or actual complaints  
13 that have been made but allegations that are included  
14 in those complaints.

15           Those complaints have not been tested. They  
16 haven't been proven. And if you listen to anybody  
17 today that comes in here to tell you anything about  
18 complaints against Supra, you will be exposing  
19 yourselves, as the Commission panel in this case, to  
20 evidence that is appropriate only for the show cause  
21 proceeding against Supra.

22           If that decision on January 20th had not  
23 been made, a 99% likelihood is I wouldn't be here  
24 trying to make this argument. I'm not saying I  
25 wouldn't on some other basis, but the bottom line is

1 the decision the Commission made on January 20th  
2 changed the nature of whatever happens in this docket  
3 for Supra, because you are the Commission that will  
4 listen to the hearing that Supra puts on to defend  
5 itself in the hearing that it has a right to have  
6 before you. And when your order is issued, which I  
7 don't think it's been issued at this point in time --  
8 when that order is issued it's going to say you have a  
9 right to file a response for 20 days, and you have a  
10 right to ask for a hearing and put on a hearing before  
11 us. And you have a right that's not going to be  
12 spelled out in that order but is fundamental to due  
13 process under the constitution, under Chapter 120 in  
14 numerous areas of the law; to have a neutral, an  
15 impartial panel impartial panel listen to the evidence  
16 that you present. You have a right to put on  
17 witnesses. You have a right to know the witnesses  
18 that will be put on against you. You have a right to  
19 cross examine them. You have a right to do discovery.  
20 You have a right to test the validity of anything that  
21 is presented to this neutral and impartial panel.

22 All of these incidents of due process are  
23 not provided in this proceeding because this is a  
24 rulemaking proceeding where the general standard is  
25 anything goes, because it's a legislative kind of

1 scenario, and it is perfectly appropriate normally for  
2 customers to come in and tell you whatever complaint  
3 they have against any entity, provided that you don't  
4 have a show cause proceeding pending against that  
5 entity.

6 For you to entertain the customer complaints  
7 and the testimony that's already been presented to you  
8 in this docket, or anything that comes in today, I  
9 believe constitutes a violation of the due process of  
10 this company. And that's why I'm asking you to grant  
11 the Motion to Strike any of the testimony or evidence  
12 that Public Counsel's exhibit contains. And I don't  
13 know -- there's no way for me to know what kind of  
14 testimony you might get today beyond what Mr. Poucher,  
15 as Public Counsel's witness, has prefiled.

16 Based on the rules that have been set up, we  
17 have a time today for customer testimony. There could  
18 be -- any of the individuals involved in these pending  
19 complaints against Supra could show up today and want  
20 to give you testimony, which in a normal scenario  
21 would not have been a problem. But because you have a  
22 pending show cause proceeding against this company, I  
23 believe it is a extremely serious violation of this  
24 company's due process to allow that kind of testimony  
25 or evidence to come in.

1 I believe it would fundamentally flaw the  
2 show cause proceeding against this company and make  
3 that order vulnerable to being overturned because of  
4 that violation of due process, if there was an order  
5 that came out of that proceeding.

6 Certainly Supra has every intention of  
7 providing you its case. It just wants the opportunity  
8 to do that.

9 Public Counsel is going to tell you that  
10 you've listened to all of these people. You went all  
11 over the state and there were people that had things  
12 to say about Supra. You should be able to get copies  
13 of the complaints that they have filed. And I think  
14 that the Public Counsel's position in that situation  
15 would be just fine but for an action the Commission  
16 has chosen to take, which is to issue a show cause  
17 against this company.

18 And short of beating this thing to death,  
19 that's my argument. And I very sincerely ask you to  
20 consider this. I think this is a very grave concern  
21 when the Commission chooses to allow a docket to go  
22 forth that is problematic at the outset. It's  
23 problematic when you combine rulemaking with an  
24 investigatory type of docket.

25 I think that pretty much it doesn't seem to

1 have violated too many people's rights up to this  
2 point. But for Supra to have to have people come  
3 today, or to have the customer complaint submitted to  
4 the record, without any opportunity to give you a  
5 concurrent testing of validity of those complaints is  
6 a very serious issue. And I'll end with that.

7           **CHAIRMAN JOHNSON:** Let me ask you a  
8 question. The evidence that's being presented, or the  
9 testimony or complaints that are being presented by  
10 Public Counsel, they aren't trying to prove those up  
11 in this particular case other than that those  
12 complaints were indeed made. Do you think just the --  
13 presenting something to the Commission that  
14 demonstrates that complaints have been made and  
15 complaints have been filed, that is somehow -- that's  
16 violating Supra's due process rights?

17           **MS. SUMMERLIN:** Yes, ma'am, I do. Because  
18 first of all, the Public Counsel is not going to tell  
19 you that they are submitting complaints that aren't  
20 true, are they? I mean, I don't mean to be glib about  
21 it. But the bottom line is the reason they are  
22 submitting these complaints is that they believe that  
23 you should consider them to be true and serious  
24 complaints that you should address in this rulemaking.

25           **COMMISSIONER DEASON:** Ms. Summerlin, the

1 purpose of that testimony is to inform the Commission  
2 as to what is the correct policy for a rule to be  
3 adopted by this Commission. The purpose of that  
4 testimony is not to revoke your certificate or to fine  
5 your company. All that has to be done in a separate  
6 proceeding, and there will have to be evidence  
7 presented at that time.

8           What I hear you saying, and correct me if  
9 I'm wrong, is that we cannot have a slamming rule  
10 proceeding if we have any outstanding show causes for  
11 slamming and vice versa.

12           **MS. SUMMERLIN:** I think that is very  
13 problematic for you to have a show cause proceeding at  
14 the same time you are allowing a rulemaking to go on.

15           **COMMISSIONER DEASON:** And it's so difficult  
16 because there's a problem out there -- or at least  
17 there appears to be a problem -- and we have show  
18 caused many companies, and then you're saying because  
19 we show caused them then we can't go to rule hearing  
20 to address the policy from a overall -- the problem  
21 from a overall policy perspective.

22           **MS. SUMMERLIN:** Commissioner, may I respond?

23           I totally understand what your situation is.  
24 Is you've got a problem out here and you've got a lot  
25 of complaints and you have to have some way to address

1 them. And I think if Public Counsel says to you  
2 today, or Mr. Poucher says to you today, "We report to  
3 you that we have received 200," or whatever  
4 "complaints against a company with this name." And  
5 that's all they say to you. Then that's the end of  
6 it. But when they submit to you written complaints,  
7 and the details of those complaints in an effort to  
8 present to you that these complaints are absolutely  
9 valid and correct, you cannot sit here, as a  
10 Commission, and block from your mind the evidence  
11 that's being presented to you in a way that's  
12 sufficient to give Supra its due process in a show  
13 cause proceeding. And I truly believe that. The fact  
14 of the matter is you have --

15           **COMMISSIONER GARCIA:** Ms. Summerlin, would  
16 that require us not to be able to use any evidence  
17 against AT&T, which I'm sure we have a show cause  
18 proceeding against, Sprint and MCI, probably everyone  
19 sitting to your left we have in some way or another a  
20 show cause proceeding at some stage of procedure  
21 before this Commission.

22           **MS. SUMMERLIN:** Commissioner, you make a  
23 very excellent point. I'm here representing Supra.  
24 I'm not representing anybody else. They are quite  
25 capable of making their arguments if they believe this

1 is something they need to argue about.

2           The bottom line situation to me is that you  
3 have plenty of evidence that stems from proceedings  
4 that you have concluded in the past against companies  
5 where you show caused companies and they either  
6 offered a voluntary contribution and settlement of  
7 those cases, or you went to hearing and you concluded  
8 those cases. Those are evidence that is perfectly --  
9 that type of evidence would be perfectly appropriate.

10           You have plenty of evidence. You have  
11 plenty of evidence related for companies for which you  
12 have not instigated a show cause. And at the end of  
13 this docket you can initiate all kinds of show causes  
14 based on whatever came out of this proceeding.

15           What I'm saying to you is today --

16           **COMMISSIONER CLARK:** But, Ms. Summerlin, how  
17 is that any different?

18           **MS. SUMMERLIN:** It's very different when you  
19 have a current proceeding going on --

20           **COMMISSIONER CLARK:** What if we did away  
21 with the proceeding, took the testimony; we'd still  
22 have heard it. The end result is no different.

23           **MS. SUMMERLIN:** The end result, in my view,  
24 is very different if you allow any further -- after --  
25 the day after you have issued a show cause against

1 this company, if you entertain evidence that relates  
2 to the allegations that are in that show cause you are  
3 violating that company's due process if it's not in  
4 the context of the hearing that that company has a  
5 right to have. That is my position.

6           **COMMISSIONER GARCIA:** You almost make a  
7 point that we're going to take an action, such as  
8 fining the company in this proceeding. We're simply  
9 trying to understand what the problem is. Public  
10 Counsel uses them as an example of the problem, but  
11 we're not holding them accountable to that problem in  
12 specific in this hearing.

13           **MS. SUMMERLIN:** You're absolutely right.  
14 You may not fine them in this proceeding. However,  
15 what kind of hearing is Supra going to have if you  
16 have 10, 15 or 20 people show up today and they sit  
17 there and tell you the details of their complaint  
18 against Supra, and I have had no knowledge ahead of  
19 time of who these individuals are, specifically who is  
20 going to show up today. We have had no opportunity to  
21 depose them ahead of time; to do discovery regarding  
22 those complaints; to do anything of the things that  
23 you do in the kind of hearing the Commission is  
24 legally obligated to provide to this company before  
25 the Commission can ultimately, in the show cause

1 proceeding, take the very serious action that you  
2 decided to propose on January 20.

3           **CHAIRMAN DEASON:** Ms. Summerlin, it seems to  
4 me, if anything, you have an advantage, because you  
5 have all of the testimony here in this proceeding,  
6 which is not designed to fine your company or revoke  
7 your company's certificate, and gives you more of an  
8 opportunity to prepare for that type testimony when it  
9 comes in at the appropriate time in the appropriate  
10 forum, in the appropriate proceeding.

11           I have a hard time understanding why you  
12 think you're being disadvantaged by this Commission  
13 conducting a rule hearing at this level to try to  
14 determine a policy to address this problem, and you  
15 think that your due process rights are being violated.  
16 I can't make that leap.

17           **MS. SUMMERLIN:** Well, Commissioner, what I  
18 have to say to you fundamentally is that you're going  
19 to be sitting here listening to one side of the story.  
20 And you will be affected by that whether you realize  
21 it or whether you intend for that to happen or not.  
22 The whole idea --

23           **COMMISSIONER DEASON:** Why does it have to be  
24 one-sided?

25           **MS. SUMMERLIN:** Because I have no -- as the

1 attorney representing this company, I have no notice,  
2 no opportunity to respond to the evidence and the  
3 testimony that you may be presented with, or that has  
4 already been presented in this docket. The whole idea  
5 of a hearing under the Chapter 120, and under the  
6 constitution, is that the individual that is being  
7 targeted for enforcement action --

8           **COMMISSIONER DEASON:** You're not being  
9 targeted in this proceeding.

10           **MS. SUMMERLIN:** Well, Commissioner, this  
11 agency has targeted this company in a proceeding that  
12 is currently open. You're right. Just because --

13           **COMMISSIONER GARCIA:** Ms. Summerlin, your  
14 argument would keep us from listening to everything in  
15 the capacity -- we heard complaints from citizens. We  
16 hear them all the time. I have heard complaints about  
17 your company. This is not a proceeding where you're  
18 going to find your company at fault with anything.  
19 We're simply trying to create a series of rules to be  
20 able to deal with the problem. Your company is going  
21 to have its moment and its hearing before us when it  
22 will make its case. Your guilt or non-guilt will not  
23 be found in this proceeding.

24           **MS. SUMMERLIN:** Commissioners, I understand  
25 what your statements are. I will tell you right now

1 that it is my position, and I am absolutely vehement  
2 about the fact that this is a fundamental violation of  
3 due process to allow any evidence to come in when you  
4 have a concurrent show cause proceeding against this  
5 particular company.

6           **COMMISSIONER JACOBS:** Ms. Summerlin, the due  
7 process argument then would anticipate that we would  
8 proceed to hearing, the show cause hearing against  
9 your client, and in that hearing we would consider  
10 evidence rendered in this proceeding without your  
11 having an opportunity to cross examine any of those  
12 witnesses. Wouldn't that be the logical conclusion?

13           **MS. SUMMERLIN:** The logical conclusion would  
14 be that you, Commissioners, have already been exposed  
15 to testimony and evidence.

16           **COMMISSIONER JACOBS:** Yes. But in this  
17 proceeding --

18           **MS. SUMMERLIN:** At a prior occasion.

19           **COMMISSIONER JACOBS:** -- in this proceeding  
20 we're not going to render any final judgment as to any  
21 interest of your clients. So the due process  
22 arguments aren't going to apply to our decision in  
23 this case. They would only apply if in the show cause  
24 we rendered a decision adverse to your clients and we  
25 relied on evidence from this proceeding.

1           **MS. SUMMERLIN:** Yes. That's the argument  
2 that would be made in that subsequent proceeding. If  
3 the order that was issued by the Commission was  
4 contrary to Supra, one possible legal attack on that  
5 order would be that the Commission had entertained  
6 evidence related to that show cause proceeding in a  
7 concurrent docket. Yes, that would be the argument  
8 that would be made.

9           **CHAIRMAN JOHNSON:** Thank you, Ms. Summerlin.  
10 Public Counsel.

11           **MR. BECK:** Thank you, Chairman Johnson.

12           The fundamental flaw in Supra's argument is  
13 they are confusing the two dockets and what the  
14 purpose of the evidence that's in the two dockets.

15           Whether or not the letters we've received  
16 are relevant or not to Supra's show cause proceeding  
17 has nothing to do with whether this evidence is  
18 relevant here in this rule proceeding.

19           You've already had ten public hearings,  
20 workshops, rule workshops around the state where  
21 you've received testimony from many customers. But  
22 notwithstanding all of the testimony you have received  
23 there, many customers either were unable or did not  
24 want to come and testify live, and they've sent many  
25 letters to our office and the Attorney General's

1 Office.

2           What we did is back on November 24th, we  
3 filed the letters we had, I think, up to two weeks  
4 before that time. We filed them with Mr. Poucher's  
5 prefiled testimony. Last Friday we filed the  
6 additional letters that we received and there's two  
7 books -- these matters are presented to the Commission  
8 for the issue of whether the Commission should change  
9 its rules regarding slamming. And particularly  
10 pertinent in this proceeding is the fact that the  
11 Commission is considering extending certain  
12 protections with regard to ALECs, and whether it  
13 should apply to local carriers as well as  
14 interexchange carriers.

15           Supra has had an opportunity to respond to  
16 the letters that we filed back in November, but they  
17 didn't do it. They had an opportunity to attend the  
18 ten workshops where we heard testimony, and I think  
19 you recall in Miami we had considerable testimony  
20 about Supra. Supra didn't do that. We have filed  
21 additional letters a week ago. I invite Supra, as far  
22 as we're concerned, to file responses to every letter  
23 we have here, and do it as a late-filed exhibit if  
24 they wish to. That would be fine with us.

25           But no matter what they say about the show

1 cause proceeding, these matters are relevant to the  
2 issue before the Commission today; and that's what you  
3 should do with your rules with respect to slamming.  
4 So I think you should deny, and urge you to deny, the  
5 motion.

6           **CHAIRMAN JOHNSON:** Thank you. Any other  
7 questions, Commissioners? This is for all of the  
8 Commissioners to vote on? It was filed as such?

9           **MS. CALDWELL:** I think it was.

10           **CHAIRMAN JOHNSON:** Is there a motion?

11           **MS. CALDWELL:** I think it would be  
12 appropriate for all of the Commissioners to vote.

13           **CHAIRMAN JOHNSON:** Is there a motion?

14           **COMMISSIONER DEASON:** I move we deny the  
15 motion.

16           **COMMISSIONER CLARK:** Second.

17           **CHAIRMAN JOHNSON:** There's a motion and  
18 second. Any further discussion? Seeing none --

19           **COMMISSIONER GARCIA:** Madam Chairman, did  
20 Staff have a opinion on this?

21           **CHAIRMAN JOHNSON:** Staff?

22           **MS. CALDWELL:** I think the purpose of this  
23 proceeding is a quasi-legislative proceeding to  
24 investigate why slamming and other consumers problems  
25 are occurring, how they occur, and what, if any,

1 measure should be taken. I feel like we do have  
2 sufficient evidence in the record as far as that type  
3 of information in order for the Commission to proceed.  
4 And just for the fundamental due process, Staff  
5 believed that it wasn't necessary to have that  
6 information in the record specifically.

7           **CHAIRMAN JOHNSON:** Okay. There's a motion  
8 and a second.

9           **COMMISSIONER DEASON:** I don't understand.  
10 What information is it that we don't need in the  
11 record?

12           **COMMISSIONER CLARK:** You know, Ms. Caldwell,  
13 if I understand your point, we wouldn't lose anything  
14 if Supra's information wasn't in there. What my view  
15 is --

16           **CHAIRMAN DEASON:** The thing is if we allow  
17 them, we grant Supra's, then everybody else is going  
18 to file the same thing and we're not going to have any  
19 information in the record.

20           **MS. CALDWELL:** I understand that. And I  
21 have formulated my opinion yesterday thinking about  
22 that. But based on the arguments, I mean I think this  
23 is a quasi-legislative proceeding where testimony can  
24 come in. And it's not going to the heart of the  
25 matter of whether anyone has actually committed any

1 kind of violation of the Commission rules.

2           And I feel like that actual complaints, if  
3 they are admitted into the evidence for the purpose of  
4 saying these are the types of complaints that we're  
5 getting, this is the type of rule that needs to be  
6 adopted, and that's what it's supporting, that type of  
7 evidence needs to come in. If it's where the evidence  
8 is going in for this is, you know --

9           **COMMISSIONER CLARK:** If I understand what  
10 you're saying, these are not being offered for proof  
11 that, in fact, a violation did occur. They are being  
12 offered for the purpose that we have these types of  
13 complaints and these are the allegations that have  
14 been made. Not whether they are true or not. And  
15 it's for us to use in terms of a legislative function.

16           I furthermore don't believe that the due  
17 process violation takes place. I don't see any  
18 difference if we didn't have a show cause pending and  
19 we took the information and then had a show cause. I  
20 think you made a good point --

21           **COMMISSIONER DEASON:** If you would have  
22 followed the logic of the argument, we could never  
23 have a rule proceeding and show causes going on. If  
24 we have a problem out there and we decide to take the  
25 course of show causes, we would be issuing Show Causes

1 and never reach the opportunity to address a problem  
2 on a going-forward basis as to how the rules should be  
3 structured for future enforcement. Or vice versa, if  
4 we wanted to look at it at that level we'd have to  
5 cease all show causes until we did that. But the  
6 thing is that whatever rule comes out of this  
7 proceeding is going to be for future prospective  
8 enforcement. And that show cause is, as I understand  
9 it, is based upon the rules as they exist today.

10           **CHAIRMAN JOHNSON:** And that show cause an  
11 argument or a point that was raised by Commissioner  
12 Jacobs, we will be bound by the information that we  
13 receive and that is presented in that particular case.  
14 The due process argument, in my mind, is misplaced.  
15 We will have to base our decision upon the evidence  
16 that is presented in that record. And Supra will have  
17 every opportunity to cross examine, to present their  
18 own witness, to rebut, before we can have any kind of  
19 enforcement action against them. We will justify our  
20 decision based upon the record that is presented in  
21 that case.

22           I believe that's the argument raised by  
23 Commissioner Jacobs, and there was a motion,  
24 Commissioner Deason, and a second. Any further  
25 discussion?

1           **COMMISSIONER JACOBS:** I'll second.

2           **CHAIRMAN JOHNSON:** All those in favor  
3 signify by saying "aye." Aye.

4           **COMMISSIONER DEASON:** Aye.

5           **COMMISSIONER JACOBS:** Aye.

6           **COMMISSIONER CLARK:** Aye.

7           **COMMISSIONER GARCIA:** Aye.

8           **CHAIRMAN JOHNSON:** Show it then approved  
9 unanimously. The Motion to Strike is denied. Any  
10 other pending motions?

11           **MS. CALDWELL:** Yes, Commissioners. The  
12 second is a Motion to Sever Portions of the Proposed  
13 Rule 25-4.110(11)(3)(a) relating to --

14           **COMMISSIONER GARCIA:** Madam Chairman?

15           **CHAIRMAN JOHNSON:** Yes, sir.

16           **COMMISSIONER GARCIA:** Could I ask  
17 Ms. Caldwell to go to another microphone. I cannot  
18 hear what she says from that microphone.

19           **CHAIRMAN JOHNSON:** Okay. We'll just take a  
20 second. (Pause)

21           **MS. CALDWELL:** Is this better? Can you hear  
22 me? All right.

23           The second is a Motion to Sever Portions of  
24 Proposed Rule 25-4.110(11)(3)(a) related to billing  
25 block requirements filed by Florida Competitive

1 Carriers Association and BellSouth Telecommunications,  
2 Inc.

3 CHAIRMAN JOHNSON: Who is going to argue the  
4 motion?

5 MS. KAUFMAN: Chairman Johnson, I'll begin  
6 and Ms. White may have something to add, as may some  
7 of the other parties.

8 Commissioners, the Florida Competitive  
9 Carriers Association and BellSouth Telecommunications  
10 have filed a joint motion before you and had asked you  
11 to do two things.

12 The first thing it asks you to do is to  
13 sever that portion of your rule as notice that relates  
14 to the PIN number blocking option, and that's  
15 Rule 25-4.110(11)(a).

16 What this proposed rule provides is that it  
17 would require carriers to offer blocks to customers on  
18 pay-per-call, which were like 900 and 976 calls. And  
19 then it would allow removal of the block through the  
20 use of a personal identification number, or PIN  
21 number.

22 We ask that you sever this portion of the  
23 rule for several reasons. First of all, it's not  
24 related to slamming, which is the issue that we've all  
25 come here to discuss today. We think given the time

1 constraints, the one-day hearing, the number of people  
2 that you need to hear from, that this issue which is  
3 not related to slamming shouldn't be considered today.

4 I think that if you do take it up, you're  
5 going to find there are a number of people here that  
6 are going to want to give you some extensive comments  
7 on it and there's going to be extensive cross  
8 examination in regard to it. And I see your looks,  
9 but the reason for that is it's a very highly  
10 technical issue, it's very complicated and it's one  
11 that has the potential to impose extreme cost on the  
12 carriers, that it's ultimately going to be passed  
13 along to the consumers.

14 And in that regard I want to quote to you  
15 from your own Staff in regard to this rule.

16 **CHAIRMAN JOHNSON:** Can I ask you a quick  
17 question? We don't have -- let me ask it as a  
18 question -- do we have any costing information that  
19 will be presented?

20 **MS. KAUFMAN:** Well, I was just going to turn  
21 to that.

22 To answer your question, Chairman, it's my  
23 understanding that some of the carriers have attempted  
24 to provide some preliminary estimates in regard to  
25 what this would cost. But many of the carriers can

1 not do that because there's a lot of confusion about  
2 how this proposal would even operate, and there are so  
3 many technical computer hardware and software changes  
4 that would have to be made, if they even could be  
5 made, that some carriers are having a hard time even  
6 providing an estimate.

7           What I was going to read to you from is your  
8 Staff's own assessment of the costs and the technical  
9 problems in the Statement of Economic Impact, which I  
10 know is called something different now, but you know  
11 what I mean. Your Staff has said in regard to this  
12 rule, this section of the rule, "Due to the widespread  
13 confusion among respondents as to how the billing  
14 block option would work technically, Staff does not  
15 have enough information to supply complete cost data  
16 for this portion of the proposed rule at this time.  
17 However, the companies' responses clearly indicate  
18 that the proposal will be technically difficult and  
19 very costly."

20           What I'm suggesting to you is that if you  
21 want to consider this sort of an option, you need to  
22 sever this out. You need to take the time, collect  
23 the information, let the carriers attempt to provide  
24 you with that information and to analyze this rule so  
25 you have a better handle on whether it can even be

1 done. And if so, is the cost of doing it worth  
2 whatever benefits might accrue from it. That's the  
3 first part of our motion: Sever out this portion of  
4 the rule from this proceeding.

5 The second part of our motion is that even  
6 if you do decide to go forward with that part of the  
7 rule that has been appropriately noticed, you  
8 certainly should not consider Staff's most recent  
9 proposed amendment to you in regard to that rule.

10 What Staff did when they filed their  
11 prehearing statement on January 15th, was they, for  
12 the first time, notified the parties that they were  
13 attempting to expand greatly the scope of the rule as  
14 noticed.

15 Now, your Staff couldn't consider that in  
16 the Economic Impact Statement and none of the parties,  
17 I'm sure, have been able to review and analyze that  
18 expansion. And if I understand the January 15th  
19 proposal from the Staff, they want to expand this  
20 billing block PIN number option from just 900/976  
21 calls to all third-party calls.

22 And, Commissioners, we want to be clear that  
23 this is a substantial change in the rule as you  
24 noticed it. It's not clear that it can even be done.  
25 And if it can be done, it's clear it's going to cost a

1 great deal of money. So we would suggest to you  
2 certainly the change that your Staff has suggested  
3 certainly ought to be properly noticed and it  
4 certainly ought to be carefully studied for its  
5 impact, both technically and financially. So at the  
6 very least you shouldn't consider the Staff's  
7 last-minute amendment in this proceeding.

8           So the bottom line of our motion is: Sever  
9 out this billing block PIN number option. It's not  
10 related to slamming. It's going to take a lot of  
11 analysis. Consider it at another hearing. Even if  
12 you don't do that do not accept any evidence, comment,  
13 testimony, and don't consider Staff's last-minute  
14 amendment in this proceeding.

15           **CHAIRMAN JOHNSON:** Thank you. Any other  
16 parties that wanted to add to that?

17           **MS. WHITE:** Nancy White for BellSouth.

18           Believe it or not we have joined in on the  
19 FCCA on this issue.

20           We are not asking you not to consider this  
21 option at all. All we're asking you to do is to  
22 consider it in another proceeding. The technical  
23 impacts are national, and the economic impacts are  
24 significant. And I think it's important that all of  
25 the parties, as well as the Commission, have a

1 thorough understanding of the technical obstacles and  
2 the costs involved before you make a decision as to  
3 adopt it or not.

4           So as I said, we're not asking you not to  
5 consider it at all. We're just saying consider it in  
6 a separate proceeding.

7           **CHAIRMAN JOHNSON:** Thank you. GTE?

8           **MS. CASWELL:** GTE was not asked to join in  
9 the motion but we'll do so anyway -- (Laughter) -- for  
10 much of the same reasons that have already been stated  
11 by Ms. Kaufman and Ms. White.

12           Procedurally we're concerned that the  
13 proposal was somewhat expanded after the initial set  
14 of rules were noticed. And from an evidentiary  
15 perspective with regard to GTE the details as set  
16 forth in the Staff's testimony in the proposed rule  
17 were not adequate to give us the information that we  
18 needed to come up with any details on the feasibility  
19 of the proposal from cost or a technical standpoint.  
20 So we feel that severing that part of the proceeding  
21 would be appropriate at this time, and perhaps look at  
22 it later in workshops if you want to go forward and  
23 consider it. Thank you.

24           **CHAIRMAN JOHNSON:** A question for the moving  
25 parties: Is this same issue being developed and

1 formulated on the national level too? Are you all  
2 providing costing information on the same issue there?  
3 Is there a docket open?

4 **MS. WHITE:** I don't believe there is. By  
5 the technical impacts being national it really changes  
6 the national numbering and how the messages are flowed  
7 between companies. I don't know -- my witness says  
8 no, it's not being considered on a national level.

9 **CHAIRMAN JOHNSON:** Okay.

10 **MS. WHITE:** Thank you.

11 **MR. MCGLOTHLIN:** Commissioner, in my  
12 capacity as being here for LCI --

13 **CHAIRMAN JOHNSON:** Could you get a little  
14 closer to the microphone?

15 **MR. MCGLOTHLIN:** I'm speaking now in my  
16 capacity as an attorney for LCI International. One of  
17 the comments that would be developed if this subject  
18 comes in has to do with potential conflicts between  
19 this proposal and certain federal policies that differ  
20 in the application.

21 So beyond the fact that there's no existing  
22 docket, there is in place federal requirements that  
23 differ substantively in the policy approach that this  
24 could have a impact on.

25 I'd like to just add that from LCI's

1 perspective also I'd like to emphasize that this  
2 particular subject is not related to slamming, and  
3 we're very concerned that because the Commission has  
4 so much on its plate with respect to the slamming  
5 issues, there's a possibility that if this subject is  
6 included, that there's not sufficient attention given  
7 to the technical or financial impacts that you do need  
8 in order to make an intelligent decision, and that LCI  
9 and other carriers need to provide to you so that they  
10 are not prejudiced by the result.

11 **CHAIRMAN JOHNSON:** Thank you.

12 Mr. Rehwinkel?

13 **MR. REHWINKEL:** Yes. Sprint also joins in  
14 the motion at this time. We wholeheartedly agree with  
15 the remarks that have been stated before.

16 We did a good-faith attempt to provide some  
17 cost information but it was only for a small piece of  
18 what the ultimate cost would be to the company. So  
19 our information was incomplete and we believe that  
20 that is a vital component that the Commission should  
21 not proceed further without. Thank you.

22 **COMMISSIONER GARCIA:** Madam Chairman, before  
23 we go through a litany of "me toos" on this side, I'm  
24 pretty disposed to granting motion, but I'd like to  
25 hear from the other side. I know we're pressed for

1 time today. And while I want to hear all the sides  
2 say "me too" I'd like to hear the other side of the  
3 argument here.

4           **CHAIRMAN JOHNSON:** Staff?

5           **MS. CALDWELL:** Commissioners, first, in the  
6 motion it alleged that there was not sufficient  
7 notice. However, there were ten rule development  
8 workshops. And the purpose of those rule development  
9 workshops was to delineate issues that needed to be  
10 addressed in the rules.

11           The cramming, or bill blocking issue, came  
12 up, I think, beginning in the Miami hearings, and so  
13 there was sufficient evidence created at that point  
14 for Staff to -- or for the Commission to include that  
15 in the rule. There has not been a violation of  
16 Chapter 120, nor has there been any allegations that  
17 it has been violated.

18           The Commission appropriately included that  
19 provision in the proposed rules, and that provision  
20 was appropriately noticed in the Florida  
21 Administrative Weekly.

22           Since that time, Staff has attempted, and  
23 we're under the same constraints that the companies  
24 were, to try and flesh out the cost information on  
25 that.

1           **COMMISSIONER CLARK:** Let me ask you a bottom  
2 line question. Does Staff oppose severing it from the  
3 rule? And let me ask you one other question: Do you  
4 feel you have enough cost information that we could  
5 defend an Economic Impact Statement on it?

6           **MS. LEWIS:** Kathy Lewis, Commission Staff.

7           Ms. Kaufman did accurately characterize the  
8 SERC she read from Page 6 of the Statement of  
9 Estimated Regulatory Costs. A data request was done  
10 to this billing block option. I do believe because  
11 the -- we did not know technically exactly how it  
12 would be completed, the companies appeared to be  
13 confused. The cost information they provided was very  
14 wide ranging but it was all very high. That was the  
15 reason for my statement in the SERC that it was  
16 technically confusing to the industry and the costs  
17 appeared to be very high.

18           I do not feel that for this particular  
19 portion of the rule right now I have enough cost data.  
20 However, it could come out in the hearing today, we  
21 could obtain more cost data through cross questions  
22 perhaps, and also I assume that I have the option of  
23 providing yet another revised cost statement prior to  
24 the agenda. So those are some ways we could obtain  
25 costs today.

1           **COMMISSIONER GARCIA:** Madam Chairman, I'd  
2 like to make a motion to go ahead and grant the  
3 petition in this case and to ask you, Madam Chairman,  
4 to set it for rule hearing.

5           And then one additional part is that I'd  
6 like Diana to move over to Ms. Lewis' seat so I can  
7 hear more clearly because I can hear Ms. Lewis  
8 perfectly, but I'm still having a problem with  
9 Ms. Caldwell.

10           But that will be the motion. In other  
11 words, for you to set this for a separate proceeding  
12 and to grant the motion.

13           **COMMISSIONER DEASON:** Joe, I've got a  
14 question on your motion. You said to set it for rule  
15 hearing. Does though contemplate we could go to  
16 workshops? Because it was suggested that perhaps  
17 workshops would be better to try to sort through some  
18 of this technical information and the costs associated  
19 with this.

20           **COMMISSIONER GARCIA:** Absolutely.  
21 Absolutely.

22           **COMMISSIONER DEASON:** If that's the  
23 situation, I second the motion.

24           **CHAIRMAN JOHNSON:** There's a motion and a  
25 second. Any further discussion?

1           **COMMISSIONER JACOB:** By severing this  
2 section, my reading of some of the testimony is that  
3 there are some parallel issues having to do more with  
4 how we determine what information IXCs can provide in  
5 the slamming context. We're still able to take the  
6 evidence on those parallel issues; is that correct?

7           **MS. CALDWELL:** I'm sorry. I think the  
8 way -- if we did sever this particular issue, we would  
9 develop the record the same way we've developed the  
10 record for the slamming. We would go back and do rule  
11 development workshops. Allow the companies and  
12 possibly the -- if the Commission wanted to go back on  
13 the road, or we could do some rule development  
14 workshops around the state to get additional  
15 information for the cramming, or possibly just use the  
16 information that we've already received.

17           **CHAIRMAN JOHNSON:** I would assume,  
18 Ms. Caldwell, that we can use the information we've  
19 already received because --

20           **MS. CALDWELL:** And for rulemaking I don't  
21 see why we couldn't.

22           **COMMISSIONER DEASON:** It seems to me we have  
23 good customer testimony on identifying it as a  
24 problem. I think where we need more amplification is  
25 on the technical aspects of how the problem should be

1 addressed cost effectively. And that's where we need  
2 to have some additional time to look at that.

3           **CHAIRMAN JOHNSON:** There's a motion and a  
4 second. Any further discussion? Seeing none, all  
5 those in favor signify by saying "aye." Aye.

6           **COMMISSIONER DEASON:** Aye.

7           **COMMISSIONER CLARK:** Aye.

8           **COMMISSIONER GARCIA:** Aye.

9           **COMMISSIONER JACOBS:** Aye.

10           **CHAIRMAN JOHNSON:** Show that approved then  
11 unanimously. Any other preliminary matters? Seeing  
12 none, Ms. Caldwell.

13           **MS. CALDWELL:** At this time, Staff will  
14 present a summary of the rules. Mr. Moses will be  
15 providing the summary.

16           **MR. MOSES:** The proposed rule requirements  
17 will apply to all companies providing local telephone  
18 service, local toll or long distance service, and  
19 require those companies to be certificated by the  
20 Public Service Commission.

21           All bills shall display the provider name,  
22 certificate number, type of service provided and the  
23 customer service number.

24           End users may subscribe to a billing block  
25 option that will prevent third parties from including

1 charges on the bill. All nonregulated charges must be  
2 segregated from regulated charges on the bill.

3 Customers must be notified of a PIC freeze  
4 option on the first bill and annually thereafter.  
5 Customers must be notified on the first or second page  
6 of the bill in bold type that a provider change has  
7 occurred. Providers acting on behalf the customers  
8 must first complete one of the following before making  
9 a PIC change: They must receive a letter of  
10 authorization, or have received a customer-initiated  
11 call requesting the change and recorded the request,  
12 or performed an independent third-party verification  
13 of the change request and recorded the request, or  
14 mailed a prepaid postcard -- or excuse me -- a  
15 postcard that must be returned signed by the customer  
16 before the service may be switched.

17 All Letters of Authorization must contain  
18 specific information regarding the customer and  
19 telephone numbers to be changed. In addition it must  
20 contain a statement clearly identifying that by  
21 signing the document, a change in providers is being  
22 authorized. Letter of Authorizations cannot be  
23 combined with any type of inducement. All Letters of  
24 Authorization and audio recordings shall be retained  
25 for one year. All charges billed on behalf of the

1 unauthorized company for the first 90 days or first  
2 three billing cycles, whichever is longer, will be  
3 credited to the customer. After this period of time,  
4 up to one year, charges over the rates of the  
5 customer's preferred company will be credited to the  
6 consumer.

7           During telemarketing and verification, no  
8 misleading or deceptive references shall be made, and  
9 the customer must be informed of the PIC freeze  
10 option. After verification, the provider must send a  
11 confirmation letter. If a customer requests a copy of  
12 the authorization, the provider must provide the  
13 information within 15 days of the request. A live  
14 operator or recording device must be used to answer  
15 complaint calls 24 hours a day, 7 days a week, and a  
16 combination of the two may be used. A minimum of 95%  
17 of all call attempts to the complaint line must be  
18 completed.

19           That concludes the summary.

20           **CHAIRMAN JOHNSON:** Thank you.

21           **MS. CALDWELL:** At this time I'd like to ask  
22 Kathy Lewis to present a summary of the Statement of  
23 Estimated Regulatory Cost.

24           **MS. LEWIS:** Commissioners, the Revised  
25 Statement of Estimated Regulatory Costs addresses the

1 proposed rule in its entirety, plus modifications that  
2 were made to the proposed rules since the original  
3 SERC was completed on December 1st, 1997.

4           **CHAIRMAN JOHNSON:** Ms. Lewis, could you  
5 speak up?

6           **MS. LEWIS:** Can you hear me better now?

7           **CHAIRMAN JOHNSON:** Uh-hum.

8           **MS. LEWIS:** In general, the portions of the  
9 proposed rule that appear to have the greatest costs  
10 are those that would make it more difficult for  
11 companies to market and bill their services  
12 nationally. Some examples are requiring the Florida  
13 certificate number to be placed on the bill, audio  
14 recording of carrier change request, and provision of  
15 the billing block option, which I understand we've  
16 already addresses.

17           The provisions for refunding charges  
18 resulting from unauthorized carrier changes also have  
19 the potential to be extremely costly, though this is  
20 difficult to measure since the number of customers  
21 that might seek refunds is unknown.

22           The revised SERC also addresses lower cost  
23 regulatory alternatives filed by affected parties  
24 pursuant to Section 120.541 Florida Statutes. Lower  
25 cost regulatory alternatives were filed by the Florida

1 Competitive Carriers Association, FCCA, and Sprint.

2           The Lower Cost Regulatory Alternatives filed  
3 by FCCA are attached to the revised SERC as  
4 Attachment A. FCCA's comments in support of their  
5 alternatives is Attachment B. Sprint's Lower Cost  
6 Alternatives is Attachment C.

7           As required by the statute, research and  
8 regulatory review Staff has either recommended  
9 acceptance of each proposed alternative or given a  
10 reason for rejecting it in favor of the rule as  
11 proposed.

12           This concludes my summary.

13           **CHAIRMAN JOHNSON:** Thank you.

14           **MS. CALDWELL:** Commissioners, this SERC was  
15 just done and brought into the hearing this morning.  
16 Staff would like to include this in its composite  
17 Exhibit No. 1 and addend or append it to that, and  
18 without any objection I'd like to do that for the  
19 parties.

20           **CHAIRMAN JOHNSON:** Is there any objection to  
21 us appending the SERC to the Exhibit 1? Seeing none,  
22 okay.

23           Now, do we need to go ahead and mark that?

24           **MS. CALDWELL:** Yes. At this time Staff  
25 would like to move into the record Staff's Composite

1 Exhibit 1.

2 It includes copies of the proposed rules  
3 that were proposed on January 2nd; the copy of the PIC  
4 freeze form; the Notice in the Florida Administrative  
5 Weekly; the Statement of Facts and Circumstances and  
6 other information provided to the Joint and  
7 Administrative Procedures Committee; Notice of  
8 Rulemaking, and comments that were filed by American  
9 Telenet, Attorney General and Office of Public  
10 Counsel, Florida Competitive Carriers Association,  
11 Florida Legal Services, LCI International, State  
12 Communications, Telecommunications Resellers and  
13 WorldCom.

14 CHAIRMAN JOHNSON: We'll then mark that as  
15 Exhibit 1. I'm sorry, you were moving that at this  
16 time?

17 MS. CALDWELL: Yes.

18 CHAIRMAN JOHNSON: Show it then admitted  
19 then without objection. Any other matters before I  
20 swear in the witnesses?

21 (Exhibit 1 marked for identification and  
22 received in evidence.)

23 MS. CALDWELL: Staff would like to know if  
24 there are any customers here who had wished to speak?

25 CHAIRMAN JOHNSON: There's one.



1           We're appearing in the customer section of  
2 this because we're not involved in the technical part  
3 of this hearing. We simply want to indicate that we  
4 represent low income people who are a significant  
5 portion of the people that you've heard from in your  
6 hearings and who are affected by slamming.

7           We've filed a comment, and we just want to  
8 briefly say verbally that the rule appears -- the  
9 proposed rule that Staff has drafted appears to be  
10 responsive to the concerns that our clients raised in  
11 your hearings. It appears like it has a good  
12 probability of being effective in addressing slamming.  
13 It is moderate in the sense that it preserves a lot of  
14 the existing practices in the telephone solicitation  
15 business. I would add, as a lawyer, considerably more  
16 practices than would be preserved if you simply took  
17 the practices in other parts of our economy with  
18 respect to signing contracts and things like that and  
19 place them here.

20           So it accommodates a lot of the legitimate  
21 concerns of the phone companies. At the same time we  
22 feel it -- that their proposed rule, particularly the  
23 provision that permits people who have been slammed to  
24 not have to pay the charges for the improper transfer,  
25 and it gives them an opportunity to notify the

1 carriers. And then if the carriers want to press  
2 their claims they have an option to do that, but it  
3 basically gives the customers a chance to ratify the  
4 changes.

5 So on behalf of the people we represent we  
6 urge the Commission to adopt the Staff rule.

7 CHAIRMAN JOHNSON: Thank you. Any  
8 questions? Thank you, Mr. Ochshorn.

9 MS. CALDWELL: At this time Staff would like  
10 to call as their first witness Ms. Jennifer  
11 Erdman-Bridges.

12 MS. RULE: Commissioners, this is Marsha  
13 Rule. I'm wondering if this might be an appropriate  
14 time to take a short break to allow some of us to  
15 delete some of our questions regarding that billing  
16 block issue?

17 CHAIRMAN JOHNSON: How much time will the  
18 parties need? Ten minutes? We'll take a ten minute  
19 break.

20 (Brief recess taken.)

21 - - - - -

22 CHAIRMAN JOHNSON: We're going to go back on  
23 the record. Staff.

24 MS. CALDWELL: Staff has called Jennifer  
25 Erdman-Bridges.

**JENNIFER ERDMAN-BRIDGES**

1  
2 was called as a witness on behalf of Staff of the  
3 Public Service Commission and, having been duly sworn,  
4 testified as follows:

**DIRECT EXAMINATION**

5  
6 **BY MS. CALDWELL:**

7       **Q**     Would you please state your name and  
8 business address?

9       **A**     My name is Jennifer Erdman-Bridges. My  
10 business address is 2540 Shumard Oak Boulevard,  
11 Tallahassee, Florida 32399-30850.

12       **Q**     Where you the same Jennifer Erdman-Bridges  
13 who prefiled direct testimony in this docket  
14 consisting of seven pages?

15       **A**     Yes, I am.

16       **Q**     Do you have any changes or corrections to  
17 make to your testimony?

18       **A**     No, I do not.

19       **Q**     If I were to ask you the same questions as  
20 proposed in your testimony, would your answers be the  
21 same today?

22       **A**     Yes, they would.

23               **MS. CALDWELL:** Commissioners, may we please  
24 have Ms. Erdman-Bridges' testimony inserted into the  
25 record as though read?

1                   **CHAIRMAN JOHNSON:** It will be inserted into  
2 the record as though read.

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1  
2 DIRECT TESTIMONY OF JENNIFER ERDMAN-BRIDGES

3 Q. Would you please state your name and business address.

4 A. My name is Jennifer Erdman-Bridges, 2540 Shumard Oak Boulevard,  
5 Tallahassee, FL 32399-0850.

6 Q. By whom are you employed and in what capacity?

7 A. I am employed by the Florida Public Service Commission as a  
8 Regulatory Program Administrator for the Bureau of Complaint Resolution,  
9 Division of Consumer Affairs.10 Q. Please give a brief description of your educational background and  
11 professional experience.12 A. My educational experience includes a Bachelor of Arts degree from  
13 Vanderbilt University, Nashville, Tennessee. I am currently pursuing my  
14 Masters in Business Administration degree at the Florida State University,  
15 Tallahassee, Florida.16 My professional experience includes six months as an Assistant  
17 Supervisor at the Division of Historic Resources. I then spent six years  
18 as Executive Director of Main Street Quincy, Inc., a downtown redevelopment  
19 organization in Quincy, Florida. Since April 7, 1997, I have been a  
20 Regulatory Program Administrator in the Division of Consumer Affairs at the  
21 Florida Public Service Commission. In this capacity, I supervise five  
22 regulatory specialists, as well as handle special projects and docketed  
23 matters that pertain to consumers.

24 Q. What is the purpose of your testimony?

25 A. The purpose of my testimony is to present to the Commission evidence

1 that Rule No.25-4.118, Florida Administrative Code (FAC), has not  
2 effectively curtailed the incidence of unauthorized interexchange carrier  
3 (IXC) change (slamming) complaints in Florida.

4 Q. On what are you basing this contention?

5 A. The Public Service Commission adopted rules in 1992 which were  
6 intended to reduce or eliminate slamming in Florida. Rather than  
7 experience a decrease, the state experienced unprecedented growth in this  
8 category of complaints. In 1992, the Commission's Division of Consumer  
9 Affairs received 309 slamming complaints that were determined to be  
10 justified. The number grew to 870 in 1993, 1,049 in 1994, 1,613 in 1995,  
11 and 2,393 in 1996.

12 Q. Is the problem limited to interexchange carriers?

13 A. No. Since competition within the local telephone market was  
14 permitted in January, 1996, the Division of Consumer Affairs has begun  
15 receiving complaints concerning slamming of local service. In fact, as of  
16 December 9, 1997, the Commission has filed 167 inquiries against one  
17 Alternative Local Exchange Carrier since September 3, 1997. Most of these  
18 inquiries are concerned with slamming of local telephone service.

19 Q. Have the complaints received by Consumer Affairs demonstrated any  
20 particular pattern?

21 A. Yes, unauthorized primary interexchange carrier (PIC) changes  
22 resulting from sweepstakes and telemarketing represented 75% of all  
23 justified complaints in 1996. In 1996, Consumer Affairs closed 971  
24 slamming rule infraction cases that dealt with sweepstakes. Telemarketing  
25 accounted for 830 slamming rule infractions. Other types of slamming

1 | complaints included, but were not limited to, misleading letters of agency,  
2 | name/ANI mismatches, and forgery.

3 | Q. Why has the Commission's rule concerning written authorization of a  
4 | PIC change order not prevented slamming due to a sweepstakes entry?

5 | A. The Commission's existing rule only states what minimum information  
6 | must be included in the LOA. It does not specifically limit what other  
7 | information may be included nor does it address the context within which  
8 | the LOA is obtained. Our experience has been that the IXC typically places  
9 | boxes in locations such as convenience stores, restaurants and flea markets  
10 | advertising a drawing to win a car or a trip. Any mention of the fact that  
11 | the drawing is being used to obtain an LOA to change a customer's PIC is  
12 | typically in small type and/or located on the side of the box where the  
13 | customer is not likely to see it. Customers sign the form unaware that  
14 | they have authorized a PIC change.

15 | We have seen numerous cases in which the person filling out the form  
16 | is not the customer of record on the telephone account, but a relative or  
17 | friend of the account holder. In these cases, the IXCs have not checked to  
18 | determine if the person whose name is on the LOA is the customer of record  
19 | and has authority to order a PIC change.

20 | The forms included with most of the drawings we have observed meet  
21 | the requirements of Rule No.25-4.118(3)(b)FAC but, since we have received  
22 | so many inquiries from customers who have signed these LOAs without  
23 | realizing that what they are signing will change their PIC, it appears that  
24 | the rule needs to be revised.

25 | Q. Why has the Commission's existing rule requiring third-party

1 verification of an order taken as a result of a telemarketing call not  
2 controlled the number of slamming complaints?

3 A. Rule No.25-4.118(2)(c)FAC. requires that, if an IXC receives an order  
4 to change a customer's PIC as a result of a telemarketing call, the order  
5 must be verified by a "qualified, independent firm which is unaffiliated  
6 with any IXC." Many IXCs record the verification call and, when asked by  
7 Consumer Affairs to provide proof that the customer has authorized the PIC  
8 change, provide us with a copy of the audio tape. In many cases the  
9 customer whose conversation was recorded has told us that they had been  
10 under the impression that they were speaking with their presubscribed IXC  
11 and that they were only authorizing a change to a discount program with  
12 that IXC. They were not aware that they were authorizing a reseller of  
13 their IXC's service to switch them.

14 A review of numerous audio tapes, submitted by the IXCs to Consumer Affairs  
15 as a result of customer inquiries, has shown that the person making the  
16 verification call does not always clearly identify the certificated name of  
17 the reseller, often referring repeatedly to the underlying carrier. In  
18 other instances, the names of some of the soliciting companies tend to  
19 confuse customers into thinking they are simply authorizing a discount  
20 program. Some of these companies include Business Discount Plan, Minimum  
21 Rate Pricing, Discount Network Services, and Network Services.

22 Q. Could you provide an example of this problem?

23 A. The following conversation is a transcript of a portion of the  
24 verification call on the switch of Beacon Sprinkler, Pump and Well Inc.  
25 service from AT&T to Discount Network Services:

1 Verifier: "As the office manager you are authorized to handle the long  
2 distance service, is that correct?"

3 Customer: "Yes"

4 Verifier: "OK and you also have the authority to approve this discount  
5 plan, is that also correct?"

6 Customer: "Yes"

7 Verifier: "OK you'll remain 100% on AT&T's lines, operators and technical  
8 support while you receive your savings from Discount Network Service, an  
9 independent AT&T reseller. In the next five to seven business days you  
10 will be sent a welcome packet concerning the program along with an 800  
11 number for customer service. Thank you for your time and enjoy your  
12 savings."

13 At no time did the verifier ask the customer, the Office Manager at Beacon  
14 Pump, Sprinkler, and Well, Inc. if he had the authority to make a change in  
15 long distance carriers. At no time did the verifier ask the customer if he  
16 authorized his long distance carrier to be switched to Discount Network  
17 Services. The verifier only refers to the customer approving a "discount  
18 plan", not a new long distance service. The verifier told the customer  
19 that he would stay "100% on AT&T's lines, operators, and technical  
20 support."

21 The purpose of the verification call is to ensure that the customer has  
22 ordered a change in service to the new company. The language used in  
23 verification calls such as this fails to determine if the person has the  
24 authority to make a change in the long distance carrier, fails to  
25 specifically ask the customer if he did indeed authorize a change in his

1 long distance carrier, and emphasizes the name of the underlying carrier in  
2 a manner that fails to make it clear that the customer is speaking to  
3 someone other than the underlying carrier.

4 Q. Why does the rule requiring that an information packet be mailed to  
5 the customer not alert the customer that he has authorized a PIC change?

6 A. The current rule requires the soliciting company to send the customer  
7 an information package including a prepaid returnable postcard, that the  
8 customer may submit to the soliciting IXC if the customer does not want to  
9 have his PIC changed. However, customers unknowingly authorize a PIC  
10 change, often because they see mail from a company whose name they don't  
11 recognize and throw it away unopened as they would with other "junk mail".  
12 Since the postcard is not returned, the soliciting IXC goes ahead and  
13 processes the PIC change order.

14 Q. The current Commission rule requires a company who has slammed a  
15 customer to rerate the customer's calls to the rate the customer would have  
16 paid had the calls been carried by the customer's preferred carrier. The  
17 company must also reimburse any PIC change charges imposed by the local  
18 exchange company (LEC). Has this rule been effective in preventing  
19 customers from suffering damages as a result of being slammed?

20 A. No. If a customer finds that he has been slammed and calls Consumer  
21 Affairs to file a complaint, our staff will make sure that the calls are  
22 rerated and the PIC change charges are reimbursed. The problem is that the  
23 customer has had to take time from his day, typically during work hours, to  
24 contact his preferred carrier to re-establish his account, contact the LEC  
25 to expedite the switch back to the preferred carrier, and to contact the

1 Commission and/or the Federal Communications Commission to file a  
2 complaint. The customer is not being reimbursed for his inconvenience.

3 The customer's preferred IXC is neither reimbursed for the revenues  
4 it has lost as a result of its losing a customer, nor is the preferred IXC  
5 reimbursed for the expense of re-establishing that customer's account.

6 Numerous customers who spoke at the Commission's Rulemaking Workshops  
7 asked the Commission to initiate a rule that would prevent the slamming  
8 company from collecting any revenues from a customer it had slammed.  
9 Analysts in Consumer Affairs frequently encounter resistance on the part of  
10 customers who have been slammed to paying a company for services the  
11 customer did not request.

12 Q. Does this conclude your testimony?

13 A. Yes, it does.  
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1           Q        (By Ms. Caldwell) Ms. Erdman-Bridges, do  
2 you have a summary of your testimony?

3           A        Yes. My testimony documents that the  
4 present rule, 25-4.118 of the Florida Administrative  
5 Code, has not effectively curtailed the incidents of  
6 unauthorized interexchange carrier complaints, also  
7 known also slamming complaints in Florida.

8           Q        Staff has one question to ask.

9                    Ms. Erdman-Bridges, you claim on Page 2,  
10 Lines 10 and 11, you claim that slamming complaints  
11 have increased. Would you please clarify if these  
12 numbers are only closed complaints, or do they include  
13 pending unresolved complaints?

14           A        The 1997 total slamming number of 1,457 in  
15 total as of January 1st, 1997, through December 1st,  
16 1997, that you're referring to is the number of cases  
17 in which the Division of Consumer Affairs has  
18 initially determined that a customer experienced in  
19 unauthorized carrier change or slamming complaint.

20                    Due to the unprecedented complaint volume in  
21 the Division of Consumer Affairs during 1997, and that  
22 is calendar year 1997, we still have 1,531 slamming  
23 inquiries. Those are, as you were talking about,  
24 unclosed complaints that were filed during the time of  
25 January 1st, 1997, through December 31st, 1997, with

1 which the PSC is contending that an unauthorized  
2 carrier change occurred, or possibly occurred, but in  
3 which we have not made an initial determination yet.

4 Q So from this response you're saying that  
5 from this information you have concluded that the  
6 incidents of slamming has increased?

7 A Yes. If you were to add those two numbers  
8 together, and I am just using this as a for-instance,  
9 because those 1,531 slamming inquiries, once again I  
10 will stress we've not made an initial determination,  
11 but if you were to add the number of 1,457 to 1,531  
12 you'd get close to 3,000 complaints.

13 MS. CALDWELL: Thank you. We hereby tender  
14 this witness for cross examination.

15 CHAIRMAN JOHNSON: BellSouth.

16 CROSS EXAMINATION

17 BY MS. WHITE:

18 Q Ms. Erdman-Bridges, this is Nancy White with  
19 BellSouth. I just have a couple of questions.

20 You state that 75% of all justified  
21 complaints in 1996 resulted from sweepstakes and  
22 telemarketing; is that correct?

23 A That is correct.

24 Q And that's kind of split half and half; half  
25 to sweepstakes and half to telemarketing?

1           A     Without me looking directly at the  
2 information, I couldn't answer that.

3           Q     Okay. In 1997, of the justified complaints  
4 you had, how many -- what percentage was represented  
5 by sweepstakes and telemarketing?

6           A     Can you please repeat that question?

7           Q     In 1997 what percentage of the justified  
8 complaints represented sweepstakes or telemarketing?

9           A     First of all, let me make a clarification  
10 that we do not use justified and unjustified as of  
11 1997. We merely close cases in infractions or  
12 categories. Infractions are rule violations of  
13 25-4.118; categories are not.

14           A     Now, getting back to your question, the ones  
15 that we had closed, around 67%, had to do with  
16 sweepstakes and/or telemarketing.

17           Q     Is that of both the infractions and the  
18 categories?

19           A     We're talking about just infractions because  
20 infractions are rule violations of 25-4.118, Florida  
21 Administrative Code.

22           Q     I'm sorry. And categories is what?

23           A     Categories are nonrule infractions of that  
24 Rule 25-4.118 of the Florida Administrative Code.

25           Q     Okay. So it was 67% -- I'm sorry?

1           A     67%. Around 67%.

2           Q     And you don't know what percentage of that  
3 67% was sweepstakes?

4           A     Not right offhand.

5           Q     But would you agree with me that if the  
6 proposed rule concerning sweepstakes goes in, that  
7 will drastically reduce the number of complaints?

8           A     That is what we're hoping.

9           MS. WHITE: Thank you. I have nothing  
10 further.

11                                   **CROSS EXAMINATION**

12 **BY MS. CASWELL:**

13           Q     I have a couple of questions,  
14 Ms. Erdman-Bridges. Kim Caswell with GTE.

15                           Did the Commission recently step up its  
16 activity with regard to enforcing its existing  
17 measures to curb slamming?

18           A     I believe that's outside the scope of my  
19 testimony.

20           MS. CASWELL: Okay. Thank you.

21           COMMISSIONER CLARK: Do you know if we did?

22           WITNESS ERDMAN-BRIDGES: It's really outside  
23 the scope of my testimony. That's probably something  
24 that Mr. Taylor would be able to address better than I  
25 could.

1 COMMISSIONER CLARK: Okay.

2 MR. WIGGINS: I have a couple.

3 CROSS EXAMINATION

4 BY MR. WIGGINS:

5 Q Patrick Wiggins for BCI Corporation. Good  
6 morning.

7 A Good morning.

8 Q Do you have any knowledge?

9 COMMISSIONER GARCIA: Mr. Wiggins, I'm  
10 sorry, you're with?

11 MR. WIGGINS: BCI Corporation, Commissioner.

12 COMMISSIONER GARCIA: Got it. Thank you.

13 MR. WIGGINS: You're welcome.

14 Q (By Mr. Wiggins) Do you have any idea of  
15 how many PIC changes occurred in Florida during 1996?

16 A Without me reviewing the information  
17 further, I don't believe I could comment at this time.

18 Q So you said in your testimony that slams  
19 have increased; these slamming complaints have  
20 increased. Do you have any knowledge or understanding  
21 of whether stated as a ratio of PIC changes whether  
22 slamming is more prevalent today than it was last year  
23 or the year before?

24 A Well, based on the information I provided a  
25 few questions ago when you asked about the number of

1 closed cases versus the number that we have unclosed,  
2 it would appear to me that if we were to those 1,531  
3 cases, I'm sure a large percentage probably would be.  
4 And I say probably because we have not made the  
5 initial determination.

6           So if you were to add those two numbers up,  
7 as I said before, you would get close to 3,000 cases.  
8 Let me once again point out the fact that we have not  
9 closed 1,531 of those cases, so I am not at liberty to  
10 be able to tell you whether or not those cases are in,  
11 indeed, slamming infractions of Rule 25-4.118 Florida  
12 Administrative Code.

13           Q     Well, if I understand your testimony  
14 correctly, the number of slamming inquiries or  
15 complaints from customers is definitely up. But do  
16 you know personally whether that's a result of  
17 increased publicity or whether it is the result of  
18 there being more slams stated as a percentage of PIC  
19 changes?

20           A     I wouldn't be able to make that  
21 determination at this time.

22           Q     Okay. Thank you. My next question is I'd  
23 like to just address for a moment how the process  
24 works today if someone is slammed in terms of getting  
25 it rectified. And let's take Bell for example. I'm

1 an Orlando resident and I'm served by Bell Telephone.  
2 And my preferred carrier is AT&T and I'm slammed by  
3 someone, Acme.

4           If I see it on my bill and I call Bell and I  
5 say, "Hey, I have been slammed. AT&T's my carrier.  
6 I'm angry about this. I don't want to pay these  
7 charges and I want AT&T back." What happens at that  
8 point?

9           A     Why don't you restate the question as to --  
10 I need some clarification as to exactly what you're  
11 talking about. If I'm understanding you correctly you  
12 were saying that the customer has already contacted  
13 the local exchange company?

14           Q     Yes. I guess I want to know if the customer  
15 contacts the local phone company, identifies it as a  
16 slam, disputes the bill, will Bell -- will Bell pursue  
17 collection on that disputed amount at that point?

18           A     Well, I can speak from the standpoint of if  
19 somebody calls the Public Service Commission, and  
20 that's what I would be speaking on behalf of. I can't  
21 speak on behalf of BellSouth. But I could speak on  
22 behalf of the fact that if they have already contacted  
23 their local exchange company, or if they've contacted  
24 the perpetrator of the possible slam, and they haven't  
25 gotten resolution, and that's when they have not

1 gotten resolution at that point, then they would call  
2 us and we would go ahead and get the complaint down  
3 from the customer. And we would put that into our  
4 consumer activity tracking system, which as Fox Pro  
5 database system, that actually catalogs these  
6 complaints, and we would send it off to the company.  
7 And we would give them 15 days to respond. And they  
8 come back to us. And we'd make the initial  
9 determination then, once we got all of the information  
10 from both, the company and the customer.

11 Q Thank you. Would you agree with me that one  
12 of the things we'd like to be sure that happens or  
13 doesn't -- one of the things we'd like to ensure  
14 against, that if someone has been slammed and disputes  
15 the bill, that that person's local service is not  
16 disconnected if he or she refuses to pay the bill?

17 A It depends on the certain circumstance.

18 Q Would you agree with me that you don't want  
19 that to happen?

20 A Once again, I'll go back to it depends on  
21 the certain circumstance.

22 Q Okay.

23 COMMISSIONER GARCIA: You paint the  
24 circumstances, but I think his point is correct,  
25 right? We use whatever circumstances are typical that

1 we would have.

2           **WITNESS ERDMAN-BRIDGES:** Okay.

3           **COMMISSIONER GARCIA:** His assertion is that  
4 we don't want the customer disconnected from the local  
5 exchange.

6           **WITNESS ERDMAN-BRIDGES:** That's correct. If  
7 you have disputed versus undisputed amounts -- and  
8 that's what I would get back to, we normally ask the  
9 company not to disconnect if there's disputed amounts  
10 versus if you have an undisputed amount, the customer  
11 is responsible for paying that undisputed amount.  
12 That's why I was asking for the certain circumstances.  
13 Because not every complaint is the same.

14           **Q**        **(By Mr. Wiggins)** Under current practice,  
15 what more does it take for a customer to protect  
16 himself or herself from being disconnected than a call  
17 to the local telephone company saying, "I dispute  
18 these long distance charges. I was slammed."

19           **A**        It's my belief that if a customer is  
20 informed, they will be able to make intelligent  
21 decisions -- and that's what I'm getting to. I'm  
22 trying to clarify what it is that you're asking. Can  
23 you go ahead and restate? Because it seems as though  
24 I'm not answering what you're needing.

25           **Q**        I think we're talking past each other.

1           A     Okay.

2           Q     I'm just trying to figure out if a customer  
3 has been slammed, and we all think that's wrong --

4           A     Okay.

5           Q     -- we don't want the customer to be  
6 inconvenienced. I'm trying to figure out what more it  
7 takes -- what more does it take for a customer to not  
8 be inconvenienced than to call the local phone company  
9 and say, "I have been slammed. Please reconnect me to  
10 my long distance carrier, and I'm not paying these  
11 bills."

12          A     I guess what we're looking at is a system  
13 where we would want to decrease the number of  
14 slammings that would occur. And that's my belief.  
15 That we're trying to decrease the number of slammings  
16 that occur. We're trying to make it so that people do  
17 not want to slam customers.

18                   COMMISSIONER GARCIA: I think you're still  
19 talking past each other. He wants to know -- take his  
20 basic scenario. What happens at the Commission when  
21 that customer calls us and tells us that has happened.  
22 What do we do?

23                   WITNESS ERDMAN-BRIDGES: If a customer  
24 calls --

25                   COMMISSIONER GARCIA: Customer calls you. I

1 am a customer and I want to go back to AT&T. I want  
2 to come back to AT&T and I call you -- or I would call  
3 the LEC -- I know you don't want to answer for the  
4 LEC -- but just give us an example since you deal with  
5 these on daily basis what happens.

6 **WITNESS ERDMAN-BRIDGES:** If a customer calls  
7 us and says that they have been slammed by a local  
8 exchange company or IXC, we take the complaint from  
9 the customer, we put it into your computer activity  
10 tracker -- excuse me, our consumer activity tracking  
11 system. We send the complaint off to the company and  
12 get the information on their side of the story. The  
13 same way we're getting the information from the  
14 customer's side of the story.

15 We ask -- we require that the company  
16 provide the information to us within 15 days. And  
17 once that information comes back, then we make a  
18 determination as to whether it's a rule violation of  
19 the Florida Administrative Code.

20 **COMMISSIONER GARCIA:** That's on our side.  
21 Now let's deal with what the customer requested. He  
22 said, "I want to go back." What do you tell them? Or  
23 what happens typically in that case? The customer  
24 says, "I want to go back to AT&T. I don't want to  
25 have Acme Long Distance. I want AT&T." What happens?

1           **WITNESS ERDMAN-BRIDGES:** Oftentimes we'll  
2 help the customer in explaining what they need to do  
3 if it takes us actually calling AT&T and saying,  
4 "What's the situation here?" You know, is that  
5 something that -- if the customer wants that, and  
6 there's a problem with AT&T connecting them, then  
7 we'll try to resolve it there. But we let the  
8 customer know what it is that they need to be doing.  
9 Is that answering the question that you need?

10           **COMMISSIONER GARCIA:** Look at Mr. Wiggins  
11 and maybe --

12           **WITNESS ERDMAN-BRIDGES:** Mr. Wiggins, does  
13 that answer the question you need?

14           **Q**       **(By Mr. Wiggins)** To the extent we're going  
15 to get there I think it does. I'll save it for -- I'm  
16 going to ask the same question of the LEC witnesses,  
17 that way we can see what their view is. But thank you  
18 for your responsiveness.

19           **WITNESS ERDMAN-BRIDGES:** Thank you.

20                           **CROSS EXAMINATION**

21           **BY MS. CANZANO:**

22           **Q**       Good evening, Ms. Erdman-Bridges. I'm Donna  
23 Canzano representing Intermedia. I just have a couple  
24 of questions.

25                           On Page 7 of your testimony you state that

1 the customer is not being reimbursed for his  
2 inconvenience. Do you recall that?

3 A I do.

4 Q Under the proposed 90 days of free service,  
5 isn't it possible that in certain circumstances the  
6 consumer could actually receive more money than the  
7 direct cost he or she incurred to rectify the  
8 situation?

9 A In my opinion, and it is my belief that  
10 that's a possibility. But I want to clarify what I  
11 was trying to state there. And that is that it's --  
12 even though it's an understanding that the purpose of  
13 these rules is not necessarily to compensate the  
14 consumer, but we're trying to get back to the point I  
15 was making with Mr. Wiggins. And that is to eliminate  
16 the incentives for the interexchange carriers to slam  
17 customers. And that's really where I was getting with  
18 that.

19 Q But under the proposed rules, don't you  
20 think that some consumers could basically earn money  
21 on this?

22 A Well, you have to look at the fact that  
23 these consumers are spending a lot of their time  
24 trying to rectify the problem. And that's where I  
25 would come back to say there are instances, and in the

1 Pensacola workshops we heard from customers that  
2 stated that they spent a lot of time try to rectify  
3 the problem. So I would throw the question back to  
4 you. You know, this is a situation where you're not  
5 paying this customer, say, \$5 an hour, but what's  
6 their time worth?

7 Q And that may be true for some consumers who  
8 are in that situation, and I do recognize that that's  
9 a concern that everybody wants to address. But in  
10 other scenarios there might be a business customer  
11 that as incurred substantial charges for, you know, 90  
12 days?

13 A I'd still come back to the fact that if you  
14 can quantify what this person's time is worth,  
15 somebody has to take the time to try to rectify the  
16 situation. Some customer, somebody in that agency, if  
17 you're talking about a business, has to take the time  
18 to rectify the situation. If you're talking about a  
19 lot of money you could be talking about a lot of time,  
20 too, on the customer's part.

21 Q And in your -- under the proposed rules, if  
22 the consumer, say he or she were a small business  
23 person, so it was a business office you are talking  
24 about and business charges, and there were thousands  
25 of dollars a month, you would still propose that it

1 should be 90 days of free service?

2 A In my opinion, yes.

3 Q If this rule were adopted, isn't it possible  
4 that some knowledgeable consumers could actually take  
5 advantage of the situation and delay reporting an  
6 unauthorized change?

7 A You'd have to cite specific instances. That  
8 would be hard to answer.

9 COMMISSIONER CLARK: It is possible, isn't  
10 it? Somebody could know about this rule, know they  
11 were improperly slammed, and just wait 90 days.

12 WITNESS ERDMAN-BRIDGES: I think you would  
13 look at having to weigh out the fact, yes, there may  
14 be a small instance where that could occurred, but you  
15 have to look at the overall -- especially if you look  
16 back on the workshops, and the fact that people were  
17 talking about the fact they spent a lot of time  
18 rectifying the problem. Are we making the customer  
19 whole? is the question I have in my mind. And that's  
20 the reason that I would be a proponent of providing --

21 COMMISSIONER GARCIA: To see degree, though,  
22 the concept of the rule is sort of to punish the  
23 companies also from doing this again.

24 WITNESS ERDMAN-BRIDGES: That's correct too.  
25 That's a good point.

1                   **COMMISSIONER GARCIA:** But Ms. Clark -- I  
2 mean, Ms. Canzano, let's say there's a customer like  
3 Julia Johnson who makes about \$500 worth of long  
4 distance calls a month. That customer could see that  
5 she had been slammed. Say, "Hey, I know the rules,"  
6 and she can wait two and half months, inform the  
7 company, say, "I was slammed. BCI is not the carrier  
8 of my choice. The carrier of my choice is MCI," and  
9 she would have profited to the tune of \$1500 over  
10 three months and then go back to MCI, and, in fact,  
11 almost want to be slammed again. (Laughter)

12                   **WITNESS ERDMAN-BRIDGES:** I don't know that I  
13 would necessarily disagree. In my opinion I believe,  
14 though, you're talking about a small percentage of the  
15 people in the state of Florida that understand the  
16 Florida Administrative Code, and would be able to take  
17 advantage of that. And are you going to look at that  
18 small percentage and make your decision or are you  
19 going to look at the larger percentage who may be  
20 taking out a substantial amount of their time to  
21 rectify the problem. I really think that's where the  
22 point --

23                   **COMMISSIONER GARCIA:** Let me ask you from  
24 our point of view how we would be able to control  
25 that. Would we have a record of that? Let's say

1 Ms. Johnson started doing this quite often, you know,  
2 she would sort of lay herself out there to sort of be  
3 slammed, or, you know, she'd forge her own signature  
4 (Laughter) Would we have a record of that?

5 **WITNESS ERDMAN-BRIDGES:** We certainly would.  
6 The Division of Consumer Affairs.

7 **COMMISSIONER GARCIA:** So then the companies  
8 would, to some degree, be able to protect them  
9 themselves. In other words, Ms. Canzano's company  
10 could come to us and say, "We want to dispute these  
11 three months, \$1500 worth of charges because we  
12 believe that she knew precisely what was going on and  
13 we shouldn't have to pay for that." Would she be  
14 able -- would Ms. Johnson have a record before the  
15 Commission which would allow Ms. Canzano's clients to  
16 be protected.

17 **WITNESS ERDMAN-BRIDGES:** That's why the  
18 Division of Consumer Affairs -- exactly what you're  
19 talking about, and I will -- I know from working in  
20 the Division of Consumer Affairs that we take the  
21 recordkeeping very seriously. And it's because of  
22 those certain circumstances -- and I say, once again,  
23 it's a small percentage. But even if you're talking  
24 about a small percentage, we keep very accurate  
25 records.

1           **CHAIRMAN JOHNSON:** Ms. Erdman-Bridges, for  
2 purposes of the record, when you're asked a question,  
3 could you begin with a yes/no answer and then go ahead  
4 and elaborate.

5           **WITNESS ERDMAN-BRIDGES:** Sure.

6           **COMMISSIONER GARCIA:** Just for the record,  
7 that was a hypothetical, Ms. Johnson. (Laughter)

8           **MS. CANZANO:** Thank you. I have no further  
9 questions.

10           **MR. NELSON:** I like the hypothetical because  
11 the Chairman had chosen MCI.

12                           **CROSS EXAMINATION**

13           **BY MR. NELSON:**

14           **Q** Ms. Erdman-Bridges, I'm Rick Nelson  
15 representing MCI. Let me follow up on a question that  
16 I think Mr. Wiggins asked you.

17                           Your testimony describes the number of  
18 slamming complaints. It does not give any information  
19 on the total number of PIC changes that Florida  
20 consumers made during any of these time periods, does  
21 it?

22           **A** Yes, I believe that's correct.

23           **Q** I guess, also, as a follow-up to a question  
24 from Mr. Wiggins, if I believe that my carrier has been  
25 changed without any consent, and I place a phone call

1 to my local company and request to be changed back to  
2 my original carrier, does that one phone call get me  
3 back to the carrier I want?

4 A Are you talking -- let me clarify in asking  
5 are you talking about the initial call that the  
6 customer is going to make to the local exchange  
7 company?

8 Q Yes.

9 A Yes, we would hope that it would. And if it  
10 doesn't, that's why we have our 1-800 number in the  
11 phone book so that people can contact us if they are  
12 having problems.

13 Q Sure. Ms. White asked you a question, I  
14 believe, about sweepstakes being a large percentage of  
15 the closed complaints. Are there other types of  
16 marketing programs long distance companies use that  
17 result in a written LOA? I'm thinking in particular  
18 of check LOAs or frequent flier mileage-type programs.  
19 Are you familiar with those?

20 A Yes, I am. But I would go back to the  
21 starting that the sweepstakes is by far the most  
22 prevalent.

23 Q Okay. I was going to ask, you really don't  
24 have a large percentage of complaints that come from  
25 the check LOAs or from the frequent flier-type LOAs,

1 do you?

2           A     I don't know that I can answer yes or no  
3 because I don't know that I have the information right  
4 in front of me to be able to answer whether it's a  
5 large percentage of it because there's -- when we're  
6 saying 67% of the cases in 1997 that we made an  
7 initial determination on, we're talking about  
8 sweepstakes and telemarketing. And there is now this  
9 other percentage, around 30-some percent, that is  
10 "other," and I would have to go back and look at that  
11 30-some-odd percent to make that determination and say  
12 what percentage.

13           Q     You haven't provided any information to  
14 Mr. Taylor or anybody else on what those percentages  
15 might be for those other types of written LOAs, have  
16 you?

17           A     No, not to my knowledge. But you should  
18 note that the Monthly Report that the Division of  
19 Consumer Affairs puts out is not only distributed to  
20 the companies and to consumers, but to other divisions  
21 within the Public Service Commission.

22           Q     And does that report break the complaints  
23 out in that level of detail so that it would say check  
24 LOA and frequent flier LOAs?

25           A     No, not to my understanding

1           Q     At Pages 3 through 6 of your testimony you  
2 talk about the Commission's current rule on  
3 third-party verification. I'm looking at Page 5,  
4 actually, Line 22, is that really your summary of what  
5 you think the major problems have been with  
6 third-party verification?

7           A     That is one -- yes, that is one of the major  
8 problems that exists, but I wouldn't say that's the  
9 only problem that exists.

10          Q     Okay. And the problem you're describing  
11 here is what I guess we could call, perhaps a  
12 deceptive verification, where it's not made clear to  
13 the customer the name of the company or the fact that  
14 indeed there is a switch. It's a reseller type of  
15 situation; is that correct?

16          A     Yes, that is correct.

17          Q     From your point of view, is there any reason  
18 that a rule that prohibited deceptive or misleading  
19 verification calls, would that address this piece of  
20 the problem?

21          A     Can you restate that for me?

22          Q     Yes. To the extent the problem is with  
23 something that -- we might characterize as a deceptive  
24 or misleading verification call, would adding a  
25 provision to the rules -- and I think you proposed

1 one -- that prohibits deceptive or misleading calls,  
2 would that really address this part of the problem?

3 A Yes, it is my opinion it would.

4 MR. NELSON: That's all I've got. Thank  
5 you.

6 WITNESS ERDMAN-BRIDGES: Thank you.

7 CROSS EXAMINATION

8 BY MR. BOYD:

9 Q Good morning Ms. Erdman-Bridges, I'm Everett  
10 Boyd. I represent Sprint. And I have just a couple  
11 of questions, please, ma'am.

12 At the top of Page 3 of your testimony, when  
13 you're referring to some of the different categories  
14 of slamming complaints, one of them is -- they are on  
15 Line 2, name/ANI mismatches. Can you explain what  
16 that is, please?

17 A Yes, I can. And I would like to comment on  
18 the fact that how we categorize -- or I should say the  
19 initial determination of our slamming complaints has  
20 been changed in 1997.

21 Before May the 1st, 1997, or around that  
22 time, we would categorize these into different  
23 categories of types of slamming, and name -- the name  
24 and mismatch was one of those.

25 We had gone to a more condensed system of

1 categorizing these complaints once we made the initial  
2 determination as a sweepstakes, telemarketing and  
3 other. So I would be able to give you from the  
4 standpoint of the name mismatch, you know, prior to,  
5 because that was something we were focusing on before,  
6 that we necessarily weren't because the present rules  
7 didn't necessarily talk about it to any great degree.  
8 It's still a problem, though.

9 Q Well, what is a name or ANI mismatch?

10 A What it is specifically is that you type a  
11 name in wrong, maybe "Mr. Johnson" is "Ms. Johnston,"  
12 you know, maybe it's keypunch error or things of that  
13 sort. And it is my opinion that the IXCs should be  
14 responsible for double-checking their work and making  
15 sure they are getting accurate information from the  
16 customer and not making those mistakes.

17 Q So that's a type of keypunch error or  
18 accident as opposed to an intentional slam, is it not?

19 A Yes. But I'd like to clarify the fact that  
20 I believe you should go back and check your work. And  
21 that is something that is a problem when you make an  
22 error of that sort, because you're slamming somebody.  
23 And if this is the case, you slammed somebody that  
24 didn't want to have their service changed.

25 Q And if I can go back to Commissioner

1 Garcia's hypothetical without any names, if a slam  
2 occurs by accident, by keypunch error or similar  
3 mistake, under the proposed rule there would be the  
4 opportunity as a result of an unintentional slam for a  
5 customer to receive three months of free service  
6 simply because of the accident, would they not?

7 A Yes, that's correct. But let me clarify  
8 again that I believe it's the responsibility of the  
9 interexchange carrier to have safeguards in place to  
10 catch data error entries.

11 Q And let me just ask one follow-up question  
12 on Mr. Nelson's inquiries about the verification  
13 process. I think he used the term "deceptive  
14 verification."

15 As part of the rule proposal is also that  
16 the verification be required to be recorded; isn't  
17 that correct?

18 A That is correct. Yes, that is correct. I'm  
19 sorry.

20 Q And I understand from reading your testimony  
21 that you've reviewed numerous tapes that you had been  
22 provided from where slams occurred?

23 A Yes, that is correct.

24 Q And, in fact, from numerous of these  
25 slamming incidents the existence of the recording of

1 the verification didn't prevent the slamming from  
2 taking place, did it?

3 A Yes, in some instances it did not.

4 Q And so as I think again Mr. Melson asked  
5 you, the real teeth of what the rule as proposed is  
6 the -- to eliminate this deceptive verification, the  
7 dialogue, the transcript itself, wouldn't you agree  
8 with that?

9 A Yes. But let me clarify the fact that if a  
10 company is required to have a tape of the  
11 conversation, I would believe that the company would  
12 have an incentive to make sure that they are following  
13 the procedures that they should be. And when they are  
14 not required to do so, I believe when you're staring  
15 to tape somebody that they are going to be on their  
16 best behavior versus if they are not. That's why we  
17 would like to see -- I would personally like to see  
18 that rule, in my opinion, being in the Division of  
19 Consumer Affairs.

20 Q Have you done -- performed or any of the  
21 other Staff, performed any kind of survey or study to  
22 try to determine whether any level of consumers out in  
23 the public would be opposed to having their  
24 conversation recorded in either the telemarketing call  
25 or the verification process?

1           A     That is outside the scope of my testimony.  
2     That would be something that Mr. Alan Taylor's bureau  
3     would probably take care of.

4           Q     Are you aware of any study or survey that  
5     the Staff has done to try to determine whether there's  
6     any kind of level of resistance or opposition by  
7     consumers to having their calls recorded?

8           A     What specifically do you mean by study?

9           Q     Any kind of survey? And kind of inquiry  
10    that might be made?

11          A     Yes. I'm aware of some things that the  
12    Division of Communications is doing to be able to look  
13    at that issue. Whether you call it a specific study  
14    or not, I wouldn't be at liberty to be able to answer.  
15    Not liberty, but I wouldn't know one way or the other.  
16    I just know they look into these kind of issues.

17          Q     But have you been given any kind of results  
18    of any kind of inquiry or study like that that we  
19    could have here this morning to evaluate this  
20    requirement that is being proposed that these calls be  
21    recorded?

22          A     No, I'm not aware of any such study.

23                   MR. BOYD: Thank you. That's all I have.

24                   CHAIRMAN JOHNSON: Ms. Rule.  
25

## 1 CROSS EXAMINATION

2 BY MS. RULE:

3 Q Ms. Erdman-Bridges, I'm Marsha Rule with  
4 AT&T. And all I have is a couple of follow-up  
5 questions to questions you already had.

6 Mr. Boyd asked you some questions about data  
7 entry errors, and if I understand his question I think  
8 what he was asking would be what if during the process  
9 of changing customer's PIC a name --

10 COMMISSIONER GARCIA: Ms. Rule, could you  
11 get closer to the mike? I'm having problems hearing  
12 you.

13 MS. RULE: Is this better?

14 Q (By Ms. Rule) What if during the process  
15 of changing a customer's PIC the company transposed a  
16 number or wrote "Johnston" instead of "Johnson"; is  
17 that your understanding of his question?

18 A Yes, that's the understanding of his  
19 question.

20 Q And then your answer was they should be  
21 careful and bear the consequences of lack of care,  
22 correct?

23 A That's correct.

24 Q And under the rule as it's proposed that  
25 would mean that the customer gets at least some

1 measure of free service, correct?

2 A That is correct.

3 Q Now, what would happen if the customer is  
4 the one who transposed the number on the LOA?

5 A In a instance like you're talking about I  
6 still think it would be the interexchange carrier's  
7 responsibility to verify that the information is  
8 correct.

9 Q How do you do that if not from the customer?

10 A A telephone call.

11 Q To whom?

12 A The customer.

13 Q Okay. So then -- Okay, if I understand you  
14 correctly, for every LOA a company gets, they should  
15 then call the customer back to make sure it's correct?

16 A Or looking at proposed rules, you would  
17 verify that the customer wants this change to occur.

18 Q Well, okay. What I'm assuming is the  
19 customer really does want the change --

20 A Okay.

21 Q -- but like all of us do from time to time  
22 you just transpose those numbers.

23 A Okay.

24 Q The customer still ends up in the same  
25 place, though, even though the customer wanted the

1 service, then from your point of view they end up with  
2 free service even though they haven't been slammed.  
3 I'm sorry, the customer who wanted the service wasn't  
4 the one who ended up with it, but that's due to the  
5 customer's error, not the carrier's. So somebody ends  
6 up with free service, right?

7       A     In an instance like -- and I would say yes,  
8 but I would make a clarification to that in that I  
9 wonder what percentage that would be, Ms. Rule, that  
10 that would occur? What we're looking at is the  
11 overall good; that is my opinion that we're looking at  
12 the overall good. And I believe, once again, it is  
13 the interexchange carrier's responsibility to  
14 safeguard that they catch data entry errors. I don't  
15 know that you could say 100% of the time, but I'm  
16 wondering what percentage. And I don't know what  
17 percentage that would be. But I would assume, my  
18 opinion, that it would be a small percentage that  
19 you're talking about. And my question would be then  
20 does that make sense to sit there and say we shouldn't  
21 put this rule into effect because a small percentage  
22 would possibly be, you know, affected by that. It  
23 would affect the interexchange carrier in a negative  
24 way, which is the information I'm hearing from you.  
25 That's what I'm trying --

1 Q But right now --

2 A -- if it's clarifying for you.

3 Q So right now we don't have any specific  
4 information on how many PICs -- PIC disputes that  
5 would affect or how many dollars of free service that  
6 would result in, do we?

7 A No, I do not have that information with me.

8 Q Okay. Now, I'd like to follow up on  
9 Commissioner Garcia's example of Chairman Johnson's  
10 exemplary long distance usage. And let's assume that  
11 she was behaving exactly as he opined; that she got  
12 the free service the first time, thought it was a  
13 great deal and filed a second or even a third slamming  
14 complaint after switching carriers, as Commissioner  
15 Garcia discussed. Now, she'd get free service each  
16 time, right?

17 A Yes, that is correct. But I will go back to  
18 the fact of what I state before: What percentage  
19 would that type of thing occur? I would believe --

20 COMMISSIONER GARCIA: Would she, in fact,  
21 get free service? What if on the third time they were  
22 able to go up against a company who isn't going to let  
23 itself be ruled by Ms. Johnson, and in this case it  
24 would be Ms. Rule who is representing AT&T. And  
25 Ms. Rule when she began this complaint addressed the

1 complaint directly, in other words, pulled up our  
2 records on complaints filed by Ms. Johnson.

3 MS. RULE: I think we're underestimating  
4 Chairman Johnson here. She's just started to do this  
5 to AT&T over and over again. If she's going to do  
6 this, she's going to pick a new carrier every time.

7 COMMISSIONER GARCIA: But my distinction  
8 is -- I didn't ask for complaints about AT&T. I  
9 believe that we would have a record on Ms. Johnson and  
10 slamming, would we not?

11 WITNESS ERDMAN-BRIDGES: Yes, that is  
12 correct. Yes.

13 COMMISSIONER GARCIA: So Ms. Rule would have  
14 a record from which to refer to and say Ms. Johnson  
15 did this this April. Ms. Johnson did this in June.  
16 Ms. Johnson did this in November. She's the one  
17 that's slamming herself.

18 MS. RULE: I still think we're  
19 underestimating Chairman Johnson. She is too smart to  
20 report it to the PSC; she reports it directly to  
21 carrier who is obliged under the new rule to credit  
22 her back within 45 days.

23 COMMISSIONER CLARK: I would only point out  
24 I think the objective of the rule is to see what the  
25 overall public policy would be. The questions being

1 asked on a person sort of instigating their own  
2 slamming has issues of fraud, you know. You've made  
3 your point.

4 MS. RULE: Allow me to address that.

5 Q (By Ms. Rule) Ms. Erdman-Bridges, are you  
6 familiar with toll fraud estimates for 1997 in the  
7 industry?

8 A No, I'm not. And I believe that would be  
9 outside the scope of my testimony to be able to  
10 comment on those type of things.

11 Q Okay. But I am entitled to explore the  
12 basis of your opinion that this particular kind of  
13 fraud would be very small, right?

14 A I wouldn't -- I would once again come back  
15 to the fact that it's outside the scope of my  
16 testimony and I wouldn't be able to comment on it.

17 Q Okay. Well, this is a rulemaking proceeding  
18 so please assume with me for a moment that the current  
19 estimate of toll fraud in the industry for 1997 is  
20 \$4 billion.

21 MR. BECK: I object. We're now at the point  
22 where the lawyer is trying to testify. Not  
23 appropriate for cross examination.

24 MS. RULE: This is a rule hearing.

25 MR. BECK: It's cross examination. It's

1 inappropriate for the lawyer to be testifying.

2 MS. RULE: I'm asking Ms. Erdman-Bridges to  
3 assume for a moment and determine if that changes the  
4 basis of her opinion. If it doesn't, it doesn't.

5 MR. BECK: I also object that there's a lack  
6 of foundation.

7 MS. RULE: I don't believe we're required to  
8 lay a foundation for comments that we're eliciting in  
9 a 120.54 rule hearing. That's how this has been  
10 noticed.

11 CHAIRMAN JOHNSON: Do you remember the  
12 question?

13 Q (By Ms. Rule) Let's assume for just a  
14 moment that the industry estimates \$4 billion worth of  
15 long distance fraud in the United States in 1997. Do  
16 you still believe that this particular kind of fraud  
17 would be very small?

18 A No. I'm going to go back to say, and I will  
19 reiterate may point, that I believe these are legal  
20 issues. I'm not a lawyer. And I believe these are  
21 communication issues, and I am not in the Division of  
22 Communications, so, therefore, I will go back to the  
23 fact that this is not within the scope of my  
24 testimony.

25 MS. RULE: Thank you.

1                   **WITNESS ERDMAN-BRIDGES:** Thank you.

2                   **CHAIRMAN JOHNSON:** No other questions? Any  
3 redirect?

4                   **MS. CALDWELL:** Yes.

5                                   **REDIRECT EXAMINATION**

6 **BY MS. CALDWELL:**

7                   **Q**     Ms. Ms Erdman-Bridges, isn't it true that  
8 the PIC changes are proprietary and that you do not  
9 have access to that information?

10                   **A**     Yes, that is correct.

11                   **COMMISSIONER GARCIA:** I'm sorry, Diana.  
12 What was the question?

13                   **MS. CALDWELL:** Isn't it true that PIC  
14 change -- that PIC changes are proprietary and you do  
15 not have access to that information?

16                   **WITNESS ERDMAN-BRIDGES:** Yes, that is  
17 correct.

18                   **Q**     (By Ms. Caldwell) Are you familiar with a  
19 rule requirement that if a customer disputes a bill to  
20 the Commission that the local service cannot be  
21 disconnected?

22                   **A**     Yes, I am vaguely familiar with that.

23                   **Q**     Subject to check, would you say that that  
24 would be Rule 25-4.113?

25                   **A**     That is correct.

1 Q Has it been your experience that sometimes  
2 the LEC disconnects a customer even when the customer  
3 is disputing the charges?

4 A Can you reiterate that for me, Diana?

5 Q Have you ever had a customer complaint where  
6 they have been slammed or have had charges on their  
7 bill that sometimes they will be disconnected for  
8 nonpayment of those disputed charges?

9 A Yes, I have seen instances where that has  
10 occurred.

11 Q Thank you. Do you agree that if the  
12 customer who was slammed knew he was not with his  
13 preferred carrier that he may not have made a call  
14 using that service?

15 A Yes, in certain circumstances I have seen  
16 that.

17 Q Do you agree that companies can protect  
18 themselves through verification procedures against  
19 consumer fraud?

20 A Can you reiterate that for me?

21 Q Well, do you agree that if the companies  
22 follow verification procedures correctly, that the  
23 consumer could not perpetrate a fraud on the company?

24 A Yes. But I'd like to clarify that. That  
25 there's always -- I have, in my experience, seen that

1 there's always a small percentage. But I would  
2 believe it would be such a miniscule percentage that I  
3 would say yes to that.

4 Q Okay. Wouldn't you agree that customers are  
5 not earning money -- would not be earning money under  
6 the 90-day refund rule that they are not being billed  
7 for charges from a company that they never selected?

8 A Yes.

9 Q Would you agree that requiring an  
10 unauthorized carrier not to bill charges to a customer  
11 that it obtained in a unauthorized manner would be a  
12 deterrent to future slams by doing that?

13 A Yes.

14 Q Do you agree that if a customer is slammed  
15 regardless of the reason, that the result is the same  
16 to the effected customer?

17 A Yes.

18 Q Do you agree that by recording the  
19 information that it helps in resolution of the  
20 complaint and protects the company from fraud?

21 A Yes.

22 Q Do you believe that if the consumer is aware  
23 that he is being recorded, that he is less likely to  
24 try and defraud the company?

25 A Yes, definitely.

1           **Q**     Do you also believe that if a customer was  
2 told at the time he was being recorded at that time he  
3 could make the choice that he did not want to be  
4 recorded and could ask for some other verification  
5 procedure?

6           **A**     Yes.

7           **Q**     If a customer transposed a number, would it  
8 not result in someone not in the transaction being the  
9 slammed customer?

10          **A**     Yes, I would believe so.

11          **Q**     All right.

12                   **MS. CALDWELL:** That concludes my redirect.

13                   **CHAIRMAN JOHNSON:** All right. You're  
14 excused.

15                   **WITNESS ERDMAN-BRIDGES:** Thank you.

16                   **CHAIRMAN JOHNSON:** Thank you.

17                   (Witness Erdman-Bridges excused.)

18                   **MS. CALDWELL:** At this time Staff would like  
19 to call Mr. J. Alan Taylor.

20                   **MR. MELSON:** While Mr. Taylor is coming to  
21 the stand, in reviewing the Statement of Estimated  
22 Regulatory Costs that were received this morning my  
23 question is, is Staff planning to have a witness on  
24 the stand who can answer any question about that  
25 Statement of Regulatory Economic Impact, or have I

1 missed my opportunity by allowing it to go into the  
2 record as part of Exhibit 1?

3 CHAIRMAN JOHNSON: Ms. Caldwell.

4 MS. CALDWELL: We had not exactly planned to  
5 call Ms. Lewis as a witness, but we will make her  
6 available for any questions on the Statement of  
7 Estimated Regulatory Cost.

8 MR. NELSON: Thank you.

9 - - - - -

10 JAMES ALAN TAYLOR

11 was called as a witness on behalf of Staff of the  
12 Public Service Commission and, having been duly sworn,  
13 testified as follows:

14 DIRECT EXAMINATION

15 BY MS. CALDWELL:

16 Q Would you please state your name and  
17 business address for the record?

18 A Yes. My name is James Alan Taylor. My  
19 business address is 2540 Shumard Oak Boulevard,  
20 Tallahassee, Florida 32399-0850.

21 Q Are you the same James Alan Taylor who  
22 prefiled direct testimony in this docket consisting of  
23 19 pages?

24 A Yes.

25 Q Do you have any changes or corrections to

1 make to your testimony?

2 A Yes. A minor change. On Page 6, Line 13,  
3 I'd like to delete the second and third words, "it is"  
4 and substitute "they are."

5 Also on Page 6, Line 18, a question begins  
6 at the end of the line that should begin as the next  
7 line. And obviously, I guess, a number of pages of my  
8 testimony are out. At this point I don't know whether  
9 you want me to tell you the pages or the not.

10 Q I think we'll just go through and strike  
11 those. Are those all your changes?

12 A Yes.

13 Q If I were to ask you the same questions as  
14 posed in your testimony, with the revisions which you  
15 just identified, would your answers be the same today?

16 A Yes.

17 Q Did you also prefile exhibit numbers JAT-1  
18 through JAT-14 along with your testimony?

19 A Yes.

20 Q Do you have any corrections or changes to  
21 make to those exhibits?

22 A No.

23 MS. CALDWELL: May we have those identified  
24 as Composite Exhibit No. 2, JAT-1 through JAT-14.

25 CHAIRMAN JOHNSON: It will be identified as

1 composite Exhibit 2. You said JA --

2 MS. CALDWELL: JAT-1 through 14.

3 CHAIRMAN JOHNSON: 1 through 14.

4 (Exhibit 2 marked for identification.)

5 Q (By Ms. Caldwell) Mr. Taylor, do you have  
6 a summary?

7 MS. KAUFMAN: Excuse me, Chairman Johnson, I  
8 think some of the exhibits that were identified relate  
9 to portions of Mr. Taylor's testimony that's going to  
10 be stricken as a result of your severing that billing  
11 block issue. So I haven't had a minute to look and  
12 see which ones they are, but I can tell you the page  
13 of the testimony, and I believe it would be the  
14 exhibits referred to in there.

15 CHAIRMAN JOHNSON: Ms. Caldwell.

16 MS. CALDWELL: I mean, we haven't had a  
17 chance to go through it either, so if you want to  
18 identify those pages real quickly then we can correct  
19 it at this time.

20 MS. KAUFMAN: I believe it's beginning  
21 Page 8, Line 10, through Page 16, Line 5. And there  
22 are a number of exhibits encompassed within there.

23 MS. CALDWELL: Subject to verification, I'd  
24 like to withdraw those exhibits that are mentioned in  
25 that testimony, from Page 8, Line 10, through Page 16

1 through Line 5.

2           **CHAIRMAN JOHNSON:** We've identified the  
3 composite exhibit, but we'll have a opportunity to  
4 take a break. Before we admit it -- we'll go back  
5 through and make the necessary corrections before we  
6 admit the exhibit.

7           **MS. CALDWELL:** Okay.

8           **CHAIRMAN JOHNSON:** Now, are you asking us to  
9 strike all of that testimony, though?

10           **MS. CALDWELL:** I think until we check it I  
11 think we would ask to strike that testimony, but I'd  
12 like a chance to review it just to make sure.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. : 970882-TI

WITNESS: DIRECT TESTIMONY OF J. ALAN TAYLOR.  
APPEARING ON BEHALF OF STAFF

DATE FILED: DECEMBER 17, 1997

## 1 DIRECT TESTIMONY OF J. ALAN TAYLOR

2 Q. Would you please state your name and business address.

3 A. My name is J. Alan Taylor: 2540 Shumard Oak Boulevard, Tallahassee,  
4 Florida, 32399-0850.

5 Q. By whom are you employed and in what capacity?

6 A. I am employed by the Florida Public Service Commission as Chief of the  
7 Bureau of Service Evaluation, Division of Communications.

8 Q. Please give a brief description of your educational background and  
9 professional experience.

10 A. I have not completed course work for a college degree; however, I have  
11 more than thirty-eight years telecommunications experience, including 21-years  
12 with the Commission's Division of Communications. I have been directly  
13 involved with every one of the Commission's rule dockets related to slamming  
14 and with virtually every slamming show cause docket. Staff recommendations  
15 were prepared by me or under my supervision. I have also investigated a  
16 number of complaints involving "cramming" and pay-per-call information and  
17 entertainment services. I believe this experience qualifies me to be an  
18 expert witness in this case.

19 Q. What are your present responsibilities with the Commission?

20 A. As Chief of the Bureau of Service Evaluation, I am responsible for the  
21 Bureau's recommendations to the Commission and the day to day operations of  
22 the Certification & Compliance Section and the Service Evaluation Section  
23 within the Division of Communications. The Bureau is responsible for the  
24 certification of all telecommunications providers, initiating consumer  
25 protection rules, enforcing these rules and for measuring and reporting to the

1 Commission the quality of service provided by Florida's telecommunications  
2 industry. The Bureau also handles telecommunications complaints of a  
3 technical nature.

4 Q. What is the purpose of your testimony?

5 A. The purpose of my testimony is to support the rule amendments proposed by  
6 the Commission. In developing my testimony, I considered whether each change  
7 recommended is pro-competition and pro-consumer. I believe all are. I also  
8 want to explain why simply enforcing the Commission's current rules with  
9 increasing penalties will not stop slamming.

10 Q. What factors did you use in considering whether each recommended change  
11 is pro-competitive and pro-consumer?

12 A. What I have done is to, in my judgement, balance the benefits of a  
13 competitive market with the needs of consumers to have control over their  
14 telephone service. Subscribers should have information and assistance with  
15 which to be able to exert and retain control over their service in order to  
16 take advantage of the full benefits of competitive offerings.

17 Q. Please take us through the substantive changes proposed by the Commission.

18 A. Several new requirements are proposed for Rule 25-4.110 Customer Billing  
19 for Local Exchange Telecommunications Companies. New paragraph (10) requires  
20 bills to display for each service included on the bill, the name of the  
21 certificated company, its certificate number and its toll-free customer  
22 service number. In addition, subscribers must be notified on their first bill  
23 and annually thereafter that a PIC-Freeze is available, so that their provider  
24 may not be changed without specific authorization. The subscriber must also  
25 be given notice on the first or second page of his bill when his provider is

1 | changed.

2 | Q. Why do you believe these changes are appropriate?

3 | A. These requirements will serve to alert subscribers to the fact that they  
4 | may have three providers, one for local, one for local-toll and one for toll.  
5 | Subscribers will be able to tell from a review of their bill which provider  
6 | is providing each service for which they are billed. Subscribers have made  
7 | it clear to us through complaints that they need additional and timely  
8 | information and they need the telephone number of each company to call for  
9 | assistance. Subscribers also deserve to be informed that they have a PIC-  
10 | Freeze option and clearly subscribers should have effective notice when their  
11 | provider is changed. These requirements protect consumers by giving them  
12 | information and provides a safeguard against slamming.

13 | Q. Should the FPSC establish any standards for the customer service numbers  
14 | required by the Commission to be established by the industry?

15 | A. Yes. I believe the Commission should establish a standard for the industry  
16 | to respond to slamming complaints that is similar to what is incorporated into  
17 | the Commission's proposed prepaid debit card rules and from existing LEC  
18 | service standards.

19 | Q. Are there other reasons to require the name and certificate number of the  
20 | carrier claiming the subscriber on the bill.

21 | A. Yes. I believe that because underlying carriers facilitate many slams  
22 | through their resale programs, this requirement will help ensure that  
23 | underlying carriers do not provide their services to companies that are not  
24 | certificated because the certificate number would have to be known before a  
25 | bill could be rendered by the underlying provider.

1           Currently Rule 25-24.4701 Provision of Regulated Telecommunications  
2 Service to Uncertificated Resellers Prohibited requires that certificated long  
3 distance companies include in their tariffs language that states that  
4 customers reselling or rebilling regulated services must have a certificate  
5 from the Commission. However, this has not kept underlying carriers from  
6 changing subscribers' PICs at the direction of downstream resellers who have  
7 no certificate. Thus, in many cases, the reseller may not be aware of the  
8 Commission's PIC change requirements through the normal certification process.  
9 Exhibit JAT-1 contains an example.

10           Historically the industry has claimed it is helpless to keep  
11 unauthorized providers from operating in Florida. However, if the underlying  
12 carrier is also billing for the downstream reseller and it must have the  
13 certificate number to do so, I believe requiring the certificate number to be  
14 on the bill will help reduce consumer confusion, encourage the industry to  
15 help us weed out uncertificated providers and reduce the number of slams  
16 facilitated by carriers at a third-party's request. Moreover, it will assist  
17 the Commission in identifying the carrier when we receive consumer bills.  
18 Without the certificated name of the carrier on the bill, staff also has  
19 difficulty in determining the provider responsible for the charges involved.  
20 Q. Do you believe underlying carriers can and should assist in this way to  
21 reduce slamming?

22 A. Yes. With respect to enforcement of Commission requirements, it must be  
23 remembered that in many cases the only entity in the market capable of  
24 stopping the slam of a reseller before it happens is the underlying carrier.  
25 While these carriers are generally reluctant to assist in enforcing consumer

1 protection requirements and argue that they risk legal action to recover  
2 damages if they don't provide services pursuant to their federal tariffs. I  
3 believe the Commission can and should require their help. First, I cannot  
4 imagine that the FCC requires the industry to provide regulated services to  
5 resellers in Florida who are not authorized to operate. Therefore, the  
6 industry should be free to, if required, verify that each reseller has a  
7 certificate for each state in which phone subscribers are billed. Secondly,  
8 I believe that if the Commission orders the industry to ensure underlying  
9 carrier services are not resold to uncertificated entities and to ensure that  
10 PIC changes they implement on behalf of others are legitimate, the industry  
11 has a legal defense to claims of anti-competitive behavior. Underlying  
12 providers may claim that their conduct is mandated by state requirements and  
13 that ~~it is~~<sup>they are</sup> therefore immune from antitrust liability because of the state  
14 action doctrine, even if those requirements are anti-competitive (Exhibit JAT-  
15 2, Parker v Brown, 317 US 3441 (1943). However, I would hasten to add that  
16 I believe rules to eliminate slamming are pro-competitive in that they foster  
17 appropriate competition as opposed to allowing the unbridled theft of  
18 subscribers as we are addressing in this proceeding. Q. Is there any Florida  
19 precedent for telecommunications providers to enforce the compliance of other  
20 providers with FPSC requirements?  
21 A. Yes, local telephone companies currently refuse to connect pay telephones  
22 and shared tenant service providers to the local network unless a certificate  
23 number is provided. A similar requirement should apply to IXCs with respect  
24 to their resale customers. However, instead of helping to prevent slams by  
25 uncertificated companies by ensuring that each reseller has a certificate the

1 | long distance industry sometimes argues that regulators should simply raise  
2 | the penalties applicable to violators.

3 | Q. Do you believe increasing penalties alone will lead to an acceptable  
4 | reduction in slamming?

5 | A. No, this approach has its deficiencies. First, since the underlying  
6 | provider is frequently the first and only one who knows, or can know, when PIC  
7 | changes are being implemented, slams still happen. Slamming is not stopped,  
8 | instead we are in a reactive mode, often a month or two after the fact because  
9 | of billing lag. Even if we impose significant fines or even cancel the  
10 | offender's certificate, by the time the regulatory process reacts,  
11 | representatives of the offending company have often accrued substantial sums  
12 | of money and have already left the market. Exhibit JAT-13 is a news clip about  
13 | eight companies, all run by the same individual and all apparently involved  
14 | in the practice of slamming. So new offenders enter the market almost as  
15 | fast, if not faster, than violators can be prosecuted and may, with the help  
16 | of underlying carriers, facilitate more slams. Furthermore, the Florida  
17 | Public Service Commission has already penalized the industry more often than  
18 | other regulators and with increasing fines. However, our increased  
19 | enforcement activity has not caused slamming to diminish to acceptable levels.

20 | Q. Are there still other reasons to require the name and certificate number  
21 | of the provider claiming the subscriber on each bill?

22 | A. Yes. Requiring the name and certificate number of the company claiming the  
23 | subscriber is also necessary because consumers are confused when the  
24 | underlying carrier is identified on their bill rather than the carrier they  
25 | have selected. Exhibit JAT-3 is a Sprint letter explaining how this occurred

1 | in their system. Other providers have had similar problems.

2 | Q. Has this been a problem in other jurisdictions?

3 | A. Yes, the FCC tried to address this problem in Order FCC 95-225, issued  
4 | June 14, 1995, when it urged LECs to develop pseudo carrier identification  
5 | codes (CIC) for resellers. However, since pseudo CICs are not yet always  
6 | operational, the only way to avoid continuing confusion for consumers is to  
7 | list the name and certificate number of the carrier claiming them on their  
8 | bill. ~~This is only fair to the consumer. After all, no one should feel~~  
9 | obligated to pay a bill from someone with whom they do not have an account.

10 | Q. What other substantive changes are recommended in Rule 25-4.110?

11 | A. The other changes to Rule 25-4.110 are in paragraph (11). These changes  
12 | are meant to address "cramming," the unauthorized addition of service fees on  
13 | LEC bills, and pay per call issues. Specifically the changes are designed to  
14 | expand the scope of Rule 25-4.110 to include all unregulated charges from  
15 | third parties that appear on local exchange company bills. A new requirement  
16 | is added in paragraph (11)(a)(3) to require LECs to make available a free  
17 | billing block option to their subscribers.

18 | Q. How would the billing block option work?

19 | A. While I am not a design engineer, as envisioned, this option would allow  
20 | subscribers to block charges to their account from unknown third-parties,  
21 | unless the electronic billing record from the provider conveying the charge  
22 | to the LEC for billing includes the LEC authorized personal identification  
23 | number (PIN) of the subscriber associated with the telephone number. Without  
24 | the correct PIN, the charges to a subscriber with a billing block would be  
25 | automatically rejected by the telephone company and would not appear on a

1 subscriber's telephone bill. Charges on the LEC bill from the subscriber's  
2 PIC provider(s) would not be blocked. The billing block option may not be for  
3 everyone and it might serve to limit access to certain services.

4 Q. Why do subscribers need the billing block option?

5 A. Some subscribers need this capability to protect themselves because the  
6 LEC billing system is very open to fraud. Through agreements with bill  
7 clearinghouses and service bureaus, virtually anyone may initiate charges to  
8 specific telephone accounts, with or without authorization and whether calls  
9 are involved or not.

10 Q. Isn't this a problem for the Federal Communications Commission and/or the  
11 Federal Trade Commission?

12 A. Yes, they also have regulatory authority; however, these agencies have not  
13 yet acted to address this Commission's concerns. Exhibit JAT-6 includes  
14 copies of the FPSC's Petition to the FCC in December 1995 to adopt additional  
15 safeguards. Attached to the Petition are examples of complaints from  
16 consumers about unauthorized charges. JAT-7 is a copy of the FPSC's comments  
17 to the Federal Trade Commission (FTC) in May 1997 urging the FTC to adopt  
18 additional safeguards. Attached to the comments are additional examples of  
19 billing abuses. It is now more than two years since the FPSC petitioned the  
20 FCC to consider adopting additional safeguards. While staff participated in  
21 FCC and FTC workshops in June 1997, the FTC has not adopted any changes to its  
22 rules as requested by the FPSC, nor has the FCC. The FCC did, however, issue  
23 a Consumer Information Brochure December 15, 1997, concerning invalid or  
24 unclear charges on local telephone bills, exhibit JAT-4. The brochure makes  
25 reference to three separate petitions for declaratory rulings or rules on

1 various issues associated with charges by other companies. I believe  
2 Florida's Petition to Adopt Additional Safeguards is one of the referenced  
3 petitions. While the information brochure is helpful, I believe it to be too  
4 little too late; moreover, the brochure provides no clue as to when, if ever,  
5 the FCC might act on any of the petitions, at least one of which is over two-  
6 years old.

7 Q. Has the Commission provided specific examples of apparent fraud to the  
8 attention of enforcement agencies?

9 A. Yes. Exhibit JAT-5 includes a staff memo to AG staff about apparent fraud  
10 by Pilgrim Telephone Company. Through our investigation we were able to  
11 determine that the 900 number call billed to a subscriber by Pilgrim through  
12 BellSouth never happened. The exhibit documents that the BellSouth subscriber  
13 had 900 blocking in place. However, BellSouth's 900 number blocking service  
14 does not include stopping the bills for 900 calls, so the subscriber was  
15 billed for a call which technically could not be dialed from his line. The  
16 file also documents that MCI, the underlying carrier for the 900 number  
17 involved, did not carry the call. Again, the fact that the call doesn't exist  
18 did not stop a bill from Pilgrim direct to a subscriber who took every action  
19 possible to avoid such a bill. A copy of the file was also provided to FCC  
20 enforcement staff.

21 Q. Do you believe the Pilgrim incident was an isolated problem?

22 A. No, based on subscriber complaints that I am familiar with, I believe  
23 fraud is common on local exchange company bills. It is a nationwide problem.  
24 Exhibit JAT-8 is an internet copy of an article appearing in the Chicago  
25 Tribune in August last year. Portions of my remarks to panels at the FTC and

1 | FCC on this issue are quoted. Also included in the exhibit is a front page  
2 | report on phone bill fraud that ran in the Ft. Lauderdale Sun-Sentinel in  
3 | November 1997.

4 | Q. If cramming is a problem, why won't the LECs correct it?

5 | A. I don't know but BellSouth and GTE Florida have certainly been aware of  
6 | the problem since Dockets Nos. 940266-TP and 940608-TP were opened in mid  
7 | 1994. Yet problems persist. As a regulator, I am concerned that the same  
8 | technologically advanced companies who can utilize technology in so many  
9 | innovative ways, seem to be unable to offer a service that subscribers need.  
10 | These same companies offer, for a price, the capability for subscribers to  
11 | block calls from callers who block their Caller ID Numbers (block the blocker)  
12 | and also allow blocking of calls from specific numbers, whether they are  
13 | harassing or not. So, subscribers may control who calls them (for a price)  
14 | but not who bills them on their local bills. It is hard for me to accept that  
15 | nothing can or should be done. Obviously, if MasterCard or Visa operated the  
16 | same way (billing with only the first ten-digits of account numbers and  
17 | publishing most of those account numbers in a phone book) and failed to  
18 | address a similar problem, they would have fewer customers. In my judgement,  
19 | it is only because subscribers have to have local telephone service that each  
20 | subscriber billed for unauthorized charges does not simply cancel their  
21 | account with the LEC. Instead they try, often fruitlessly, to contact  
22 | unresponsive third-parties to clear up unwelcome charges on their local  
23 | telephone company account.

24 | Q. What happened when you referred documentation about Pilgrim to other  
25 | agencies for possible enforcement action?

1 A. To my knowledge no enforcement action has been taken against Pilgrim by  
2 any agency that I reported the apparent violations to.

3 Q. Are you aware of any LECs canceling billing contracts with  
4 information/entertainment providers because of complaints?

5 A. No. Over the years I have occasionally asked LECs to review their billing  
6 contracts to see if a particular contract should be cancelled. The response  
7 has generally been that the matter is under review. Therefore, I believe very  
8 few, if any, third party providers have been restricted from billing via the  
9 LEC billing system despite literally thousands of complaints nationwide.

10 Q. Do you have other examples of complaints?

11 A. Yes, problems continue. Exhibit JAT-9 is the complaint of Ron Leppok. He  
12 was billed \$45 for a voice card he denies ordering. His experience in  
13 resolving this complaint through GTE Florida, USP&C & New World Telecom is  
14 described in detail in the exhibit. Another example is the recent complaint  
15 of Maida, Galloway & Neal, P.A., a Tallahassee law firm. Exhibit JAT-10 is  
16 a copy of my file, portions of which are, in my judgement, pornographic. This  
17 file is included to demonstrate the types of businesses that have direct  
18 access to telephone accounts. It can also be seen from this document why  
19 parents need the billing block option to screen the telephone entertainment  
20 calls of minors just like the V-Chip option they have to screen television  
21 programming. Moreover, unlike our certification process that attempts to  
22 screen out felons and others convicted of crimes, it would appear from the  
23 complaints I have reviewed that no similar screening takes place before access  
24 is granted by LECs to their billing systems. Exhibit JAT-11 shows how some  
25 Floridians were victimized by telemarketing practices that appear to be

1 criminal in nature. The charges for the scam flowed directly through their  
2 telephone bills. Unfortunately, local telephone companies may not even know  
3 who many of the companies using their system are.

4 Q. What else can be learned from reviewing this file?

5 A. This file also demonstrates that the entertainment provider involved  
6 believes they are legally entitled to pursue collection of charges that were  
7 not authorized by the law firm. It appears the law firm engages a cleaning  
8 service to clean its offices in the early morning hours. Apparently a member  
9 of the cleaning crew may have initiated several calls. The file includes an  
10 ad for the entertainment service that encourages callers to call an 800 number  
11 first. It is noteworthy that the price disclosure is the smallest type on the  
12 page and is in apparent violation of Section 308.3 of the Trade Regulation  
13 Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act (TDDRA).  
14 Callers are subsequently referred to a 900 number but they are also informed  
15 to call an international number if 900 blocking is in place. The ad itself  
16 is apparently directed only to 19 year-olds as it says the service is for  
17 teenagers over 18. The file also includes a transcript of what the callers  
18 to the 800 number initially hear. Callers are informed of ways to get around  
19 900 blocking. This seems to directly encourage circumvention of subscriber  
20 control of their telephone lines and of dialing blocks provided by local  
21 telephone companies. I believe this is a common practice in this industry.  
22 Whether this violates federal law or not is unimportant. If it does, it is  
23 unlikely to be prosecuted and it will continue or the provider will disappear  
24 and reappear with another name. If it doesn't violate the law, perhaps it  
25 should. What it does demonstrate is that the law firm (telephone subscriber)

1 | needs tools to protect itself. Ads like this probably often lead to theft of  
2 | dial tone, like the law firm experienced. I believe the billing block option  
3 | is one tool that Floridians should have to protect against unauthorized use  
4 | of their telephone service. Subscribers who can control access to their  
5 | telephone account by third-parties will, in effect, be able to place a stop  
6 | payment on unauthorized direct drafts against their accounts. This is also  
7 | the closest thing parents and businesses have to a V-chip for their telephone  
8 | service.

9 | Q. Is there any precedent for the FPSC to act unilaterally against interstate  
10 | and international fraud affecting Floridians?

11 | A. Yes there is precedent for this Commission to provide subscribers with  
12 | protection from interstate and international fraud. Rule 25-24.515(16)  
13 | assures that Florida pay phone providers are held harmless on their local  
14 | exchange bills from interstate and international fraudulent charges (Exhibit  
15 | JAT-12). In my view all subscribers need protection from unauthorized  
16 | charges.

17 | Q. What do you believe the FPSC should do?

18 | A. Despite this Commission's efforts to pursue a federal solution, none  
19 | appears on the immediate horizon. Therefore I believe that the FPSC should  
20 | move to ensure that Floridians have the additional safeguard of a billing  
21 | block option. It is clear from the examples described in my exhibits that 900  
22 | number dialing blocks are no longer adequate to control fraud. Very little,  
23 | if any, enforcement action has been taken even though we have documented that  
24 | subscribers are being billed for calls that did not occur and subscribers are  
25 | receiving bills for services they never ordered and for transactions that bear

1 | no resemblance to what actually transpired. I am not aware of any prohibition  
2 | against such a state action in Trade Regulation Rule Pursuant to the (TDDRA)  
3 | administered by the FTC. The complementary requirements of Section 228 (47  
4 | U.S.C. 228) Regulation of Carrier Offering of Pay-Per-Call Services of the  
5 | Communications Act appears to provide states with authority to address PPC  
6 | problems:

7 | (g)(4) STATE AUTHORITY - Nothing in this section  
8 | shall preclude any State from enacting and enforcing  
9 | additional and complementary oversight and regulatory  
10 | systems or procedures, or both, so long as such  
11 | systems and procedures govern intrastate services and  
12 | do not significantly impede the enforcement of this  
13 | section or other Federal statutes.

14 | The situation is so bad that even if the Commission does not believe it  
15 | legally can require the billing block option to be made available, I would  
16 | recommend that the Commission pursue it anyway to draw attention to this  
17 | problem.

18 | Q. Is there anything else the FPSC could do if it does not require LECs to  
19 | provide subscribers with a billing block option?

20 | A. Yes, alternatively the Commission could warn the public of the continuing  
21 | problems, and implement a do not bill list, similar to the do not call list  
22 | for telemarketers maintained by the Department of Agriculture. The Commission  
23 | could also recommend that subscribers with unauthorized charges consider  
24 | changing to a competitive local exchange provider (if any are available) who,  
25 | to this point, may not allow open access to their billing systems. Another

1 | option ~~is to suggest~~ that the public use cellular and PCS services to avoid  
2 | both telemarketing and billing fraud of this nature. As the price  
3 | differential between wireline and wireless services becomes smaller, such a  
4 | switch may be worth it to some subscribers, in lieu of demands to pay hundreds  
5 | of dollars in fraudulent charges.

6 | Q. What other substantive amendments are needed to the Commission's rules?

7 | A. Rule 25-4.118 Local, Local Toll, or Toll Provider Selection is being  
8 | amended to expand the scope of the rules and to apply the same slamming  
9 | standards to LECs, ALECs and IXCs. Also, in recognition that the Commission's  
10 | current verification procedures have failed to reduce slamming to acceptable  
11 | levels, the PIC change verification process is tightened up.

12 | Q. Why are these changes necessary?

13 | A. These changes are necessary because slamming is occurring in the local  
14 | market as well as the toll market and consumers need the same protections in  
15 | each market. These changes are also necessary to ensure that subscribers have  
16 | control over their telephone choices. Again, these changes are based on a  
17 | balancing of the benefits of full competition against the abuses that are  
18 | occurring in the Florida market. With these changes, consumers can change  
19 | their PIC at will; but, it will be more difficult for slamming to occur.  
20 | Protections are built into these rules for both industry and consumers.  
21 | Providers who adhere to these requirements will have fewer costs associated  
22 | with complaints while consumers will be protected through the availability of  
23 | more specific, descriptive information that is less subject to the deception  
24 | seen in many complaints to this agency.

25 | Q. Will providers have options as to which verification process they use?

1 A. Yes, providers may still consider the expense and reliability of each  
2 method and select the best one as the verification method they use.

3 Q. What are the providers' options?

4 A. The first option is to obtain a letter of agency (LOA) from the customer.  
5 The LOA must include the billing name and number to be changed, a statement  
6 identifying the certificated name of the provider claiming the subscriber, and  
7 the service to be changed, i.e., local, local toll and/or toll. The LOA must  
8 also contain a statement that the person requesting the change is authorized  
9 to do so and a statement that the change will apply only to the number on the  
10 request form and that there can only be one provider for each service, local,  
11 local toll and toll. In addition, the form must contain a statement that the  
12 LEC may charge a fee for each change and must include the subscriber's  
13 signature or endorsement on the form. LOAs used for this purpose must conform  
14 to the following requirements, the fee statement must be legible and at least  
15 as large type size as any other text on the page and must be directly above  
16 the signature line. Likewise the soliciting company's provider change  
17 statement must be legible and be located directly below the signature line.  
18 The LOA shall not be combined with inducements of any kind on the same  
19 document.

20 The next option providers have to verify a PIC change request is to  
21 receive a customer-initiated call from the number to be changed in which the  
22 customer's consent is obtained to audibly record the requested change,  
23 including the billing name and each number to be changed.

24 A third option is for third-party verification using an independent,  
25 unaffiliated firm to obtain the customer's consent to record the change and

1 an audio recording of the customer's billing name and each number to be  
2 changed; a statement clearly identifying the certificated name of the provider  
3 claiming the subscriber and the service to which the customer is subscribing,  
4 i.e., local, local toll or toll, whether or not the provider uses facilities  
5 of another company; a statement that the person requesting the change is  
6 authorized to do so; a statement that the request will apply only to the  
7 number on the request and that the customer may presubscribe to only one  
8 local, local toll or toll provider; and finally, that the LEC may charge a fee  
9 for the change.

10 The final option is for the provider to receive a change request from  
11 the subscriber to which the provider has responded by mailing an  
12 informational package that includes a notice that the information is being  
13 sent to confirm that a telemarketer obtained a request to change the  
14 subscriber's telecommunications provider; a description of any terms,  
15 conditions and charges that apply; the name, address, and telephone number of  
16 both the subscriber and the soliciting company; a postcard which the  
17 subscriber may use to confirm a change request; a clear statement that the  
18 customer's provider will be changed to the soliciting company only if the  
19 customer signs and returns the postcard confirming the change; and, finally,  
20 a notice that the subscriber may contact the Commission's Division of Consumer  
21 Affairs for consumer complaints. The soliciting company may not submit the  
22 change request unless and until the post card notification is returned as  
23 described above.

24 Q. Why must the post card be returned?

25 A. Exhibit JAT-14 is two examples of "welcome letters." In each case the

1 | correspondence essentially appears to be junk mail, making it very likely that  
2 | the addressee/subscriber will not review the materials sufficiently to even  
3 | see the post card form, much less, realize that something has to be done to  
4 | prevent his provider from being changed.

5 | Q. Have you reviewed the amendments to Rule 25-4.118 and do you believe that  
6 | they are necessary?

7 | A. Yes, based on my experience and review of complaints reaching the  
8 | Commission. I believe the proposed changes to Rule 25-4.118 are necessary to  
9 | provide consumers with the tools to control their telephone service provider  
10 | selection.

11 | Q. Do you support each of the rule changes proposed?

12 | A. Yes, for all the reasons set forth in my testimony, including my exhibits.

13 | Q. Does this conclude your direct testimony?

14 | A. Yes.

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1           Q        (By Ms. Caldwell) At this time,  
2 Mr. Taylor, could you please give us a summary of your  
3 testimony?

4           A        Yes. To put my testimony in context, the  
5 issues in this proceeding in my view boil down to  
6 control of subscribers' telephone service: Whether  
7 the subscriber will control it or whether the industry  
8 will have control.

9                    The problems we're dealing with are national  
10 in scope, but there's no reason for Florida not to  
11 lead once again in implementing the best solutions,  
12 which I believe will be followed closely by other  
13 jurisdictions. And I would like to -- my testimony  
14 points out that Floridians have let you know through  
15 their complaints that the status quo is not  
16 acceptable.

17                   My testimony supports subscriber control of  
18 their telephone service and the provision of  
19 additional information and assistance to subscribers.  
20 I believe consumers deserve specific information on  
21 their bill, such as the type of service provided, the  
22 provider's name, and the certificate number and  
23 toll-free customer service number.

24                   My testimony recognizes that virtually no  
25 long distance company has ever agreed that it slammed

1 anyone. While subscribers complain, the industry by  
2 and large responds that they follow the current rules  
3 and therefore they should not be penalized. These  
4 differences of opinions between subscribers and the  
5 industry must be reconciled.

6 My testimony supports rule amendments to  
7 tighten verification procedures and eliminate some  
8 methods of marketing, which I believe are deceptive.  
9 My testimony suggests that with full disclosure and  
10 complete information, as set forth in the proposed  
11 rules, subscribers will make informed decisions  
12 without complaints, and true competition should  
13 result, benefiting both subscribers and the industry.

14 This concludes my summary.

15 MS. CALDWELL: Thank you. I'd like to ask a  
16 few questions.

17 Q (By Ms. Caldwell) Mr. Taylor, why should  
18 Florida adopt more stringent rules than currently  
19 exist or for those that are proposed by the FCC?

20 WITNESS TAYLOR: Well, first of all, I think  
21 that the Florida Commission is uniquely positioned to  
22 respond to these issues. You have actually met with  
23 consumers. You've heard firsthand. You have, or will  
24 have, a better record upon which to base your  
25 decisions. I see no reason for you not to go ahead

1 and lead.

2 As far as the FCC's rulemaking proceeding,  
3 I've not been able to get anyone at the FCC to  
4 indicate when they may come forward and adopt their  
5 rules. Sometimes it's literally taken an act of  
6 Congress, I think, to get rules on the books.

7 So I believe that consumers have spoken to  
8 you. That's something that the -- public hearings is  
9 something that I don't think the FCC often does. And  
10 so I believe you're in a position to address these  
11 issues and you should go forth, and that other  
12 jurisdictions will follow your lead.

13 Q Mr. Taylor, these companies have put forth  
14 the position that some slamming is inevitable. What  
15 level of slamming do you believe is allowable while  
16 still allowing vigorous competition and balancing the  
17 customer's interest?

18 A Well, certainly I think we all have to  
19 recognize that mistakes do occur. I don't know what  
20 the proper level is. I do know that subscribers have  
21 told us through their complaints that they are not  
22 being dealt with fairly. If the industry asserts that  
23 they were always abiding by the rules, then I think  
24 we -- it's incumbent upon us to come up with a -- with  
25 better rules to properly address the consumer's

1 concerns.

2 Q Mr. Taylor, do you believe it's fair if one  
3 customer is considered a part of the allowance and not  
4 helped through the Commission intervention and another  
5 customer benefits from being considered above the  
6 allowance, isn't the point that any slam should maybe  
7 considered equal?

8 MR. WIGGINS: This is not a formal  
9 objection, but I don't understand the question so  
10 therefore --

11 MS. CALDWELL: I think I'd like to strike  
12 that question. And I tender the witness for cross  
13 examination.

14 CROSS EXAMINATION

15 BY MS. WHITE:

16 Q Mr. Taylor, Nancy White on behalf of  
17 BellSouth. I just have a few questions for you today.

18 Does the rule as proposed make any  
19 distinction between intentional or unintentional  
20 unauthorized changes of a customer's provider?

21 A No. But I think if the industry follows the  
22 rules, there will certainly be less unintentional  
23 changes.

24 Q Well, if say -- you're married, aren't you?

25 A I am.

1           Q     Okay. Say your wife changes your residence  
2 or your home long distance service from AT&T to MCI  
3 and you find out about it and you're not happy with  
4 that decision. And you call up and say, "I have been  
5 changed. I want to hang back." Would that be  
6 considered slamming under the rule?

7           A     To be honest I think we have to recognize  
8 that -- I think it would depend on who the subscriber  
9 of record is with BellSouth. If the subscriber of  
10 record is the husband and wife, probably I would think  
11 either would be able to change, and I don't think I  
12 would count that as a slam. If the company responded  
13 that the subscriber of record provided the  
14 authorization and there's a household dispute, I would  
15 hope that none of you at the table would think that I  
16 would count that as a slam against you.

17                     On the other hand, I think you do have to  
18 recognize that not every home is necessarily a happy  
19 one -- (Laughter) -- and that realistically the  
20 subscriber -- the subscriber of record is responsible  
21 for the bills. And I think to have that service  
22 changed, and incur costs to the subscriber without his  
23 or her authorization is something we would like to  
24 prevent. And I think it's incumbent upon the industry  
25 to do a good job to make sure that they get the

1 authorization of the subscriber of record.

2 Q So if in the situation we were just talking  
3 about, if the -- if you are the subscriber, you're  
4 listed as the subscriber and your wife changes primary  
5 exchange carrier without your permission, that would  
6 be considered slamming under this rule and you would  
7 be entitled to the 90 days free service; is that  
8 correct?

9 A I'm not sure I follow that, Nancy. Could  
10 you say that over?

11 Q Sure. We're talking about you're the  
12 subscriber, you're listed as the subscriber.

13 A Let's do it realistically. My wife had her  
14 telephone before she had me. (Laughter)

15 Q So your wife is listed as the subscriber.

16 A Right.

17 Q And you've made a husbandly decision that  
18 you don't want MCI anymore for your long distance, you  
19 want AT&T. And you've made that change with the  
20 interexchange carrier and the local exchange company.  
21 And she comes home and is very angry with you for  
22 doing that. And calls up the local exchange company  
23 and says, "It was changed without my permission."  
24 Would that be considered a slam under the proposed  
25 rule? And would she be entitled to 90 days free

1 service?

2           A       First of all, I think if I did that without  
3 her knowing about it, she didn't like it -- if she  
4 called it a slam I'd say it was a slam. (Laughter)

5                   But I think fundamentally since she pays  
6 that telephone bill, it's her responsibility.  
7 Probably I wouldn't make that kind of decision without  
8 her knowledge.

9                   **COMMISSIONER CLARK:** Mr. Taylor, let me ask  
10 you a question: Are the rules clear as to who can  
11 authorize the change for a phone call -- I mean for a  
12 phone? Is it limited to the subscriber of record, or  
13 is it anyone in the household except a minor?

14                   **WITNESS TAYLOR:** I think we always operate  
15 from the perspective --

16                   **COMMISSIONER CLARK:** I want to know if the  
17 rules are clear.

18                   **WITNESS TAYLOR:** -- and you've asked me a  
19 question I guess I don't know the answer to. I'll  
20 have to --

21                   **COMMISSIONER CLARK:** Shouldn't they be clear  
22 as to whether or not that kind of situation would  
23 result in a slam? Because, otherwise, you're asking  
24 us and the phone company to make a decision as to who  
25 was right within the household. I mean, isn't it

1 important to clearly delineate what constitutes a  
2 slamming?

3           **WITNESS TAYLOR:** Yes. I think if we have  
4 not made it clear that the subscriber of record is the  
5 one who needs to authorize the change, that we should  
6 make that change.

7           **COMMISSIONER GARCIA:** So let's ask the  
8 question then again, and then we'll go back to your  
9 household and we'll leave the fighting out of it.

10           Your wife says, "I want to go back to MCI,"  
11 I believe was the carrier we had first stated. This  
12 complaint lands on our desk here at the Commission.  
13 What will we do?

14           **WITNESS TAYLOR:** I think if it landed on my  
15 desk, Commissioner Garcia, that --

16           **COMMISSIONER GARCIA:** You'd decide with your  
17 wife. We already know that part.

18           **WITNESS TAYLOR:** Well, I mean, I don't know  
19 that I would agree that it was a slam. Those  
20 decisions are typically made by Consumer Affairs when  
21 they close out the complaints before they come to me.  
22 But in reviewing the data, I would -- I'm not called  
23 upon very often to reconcile disputes within the  
24 household or within a business, so I don't think we  
25 really make a big issue out of that.

1 I think the idea that the industry is going  
2 to have to give away free service willy-nilly is  
3 probably being overblown.

4 COMMISSIONER GARCIA: All right. But then  
5 let's look at what will happen. I'm not asking you to  
6 get involved in a dispute in a home. But in this case  
7 you would have the facts before you. You would have a  
8 recording of a Mr. Alan Taylor saying "change my  
9 service" who we know is in that household. And then  
10 we would have Ms. Taylor calling in and saying, "I was  
11 slammed." And then we'd do a review of that case.

12 In that case our Staff would have various  
13 levels, according to the rule -- and this is, I guess,  
14 a question to you -- of what we would do. We may  
15 simply ask that the company rerate the service and  
16 that's it. We could also say, well, in theory, this  
17 was a slam. Give them back one month of service. But  
18 you would have all of those options, correct?

19 WITNESS TAYLOR: Yes. Currently, to my  
20 knowledge, we've never prosecuted a case where, you  
21 know, there was a spousal dispute over their preferred  
22 interexchange carrier.

23 Q (By Ms. White) Well, I guess, Mr. Taylor,  
24 my question is, is there anything in the rule that  
25 would give you that leeway? In other words, is there

1 anything in the rule that makes the distinction  
2 between intentional and willful unauthorized changes,  
3 and unauthorized changes that occur because of a  
4 mistake, because of buyer's remorse, because of a  
5 household dispute? And if not, should there be?

6 A No. I think the rules are very specific in  
7 that if you follow all of the options you'll eliminate  
8 most of the cases that you're asking about.

9 Q But, I mean, Commissioner Garcia was asking  
10 you that -- you were answering that you would have  
11 some leeway in looking at each individual complaint.  
12 Does the rule, as proposed, give you that leeway?

13 A I don't know whether it does or not. Can  
14 you refer to -- well, maybe we can come back to this  
15 question.

16 Q Well, let me ask you, if it's not in there,  
17 do you think it should be?

18 A Well, as a public servant I think it's  
19 incumbent upon us public servants to always use good  
20 judgment in application of any rules to a specific  
21 situation.

22 I guess it could be, although -- I mean, it  
23 might be a good idea to have it in there, but I don't  
24 want -- as I said today no company thinks they've ever  
25 done anything wrong. And I think if we build into

1 this process a list of excuses or exceptions to the  
2 rule, that we just as well stay where we are.

3           **COMMISSIONER GARCIA:** Mr. Taylor, I think  
4 what Ms. White is trying to get at is that should you  
5 have, as a public servant, the discretion of applying  
6 the rule depending on the circumstances?

7           **WITNESS TAYLOR:** Yes.

8           **COMMISSIONER GARCIA:** So we should -- I  
9 think her question was, if it doesn't give the  
10 discretion, then we should write it so that it does?

11           **MS. WHITE:** Would you agree with  
12 Commissioner Garcia's last statement?

13           **COMMISSIONER GARCIA:** Right. That was a  
14 question.

15           **WITNESS TAYLOR:** Okay. That's hard to argue  
16 with. I think that sounds reasonable, yes.

17           **MS. WHITE:** Thank you. I have nothing  
18 further.

19           **CHAIRMAN JOHNSON:** Mr. Taylor, let me ask  
20 you a question, and maybe Commissioner Clark asked it  
21 and you may need to investigate the answer, but do our  
22 rules state who is authorized to make a change? Does  
23 it say the subscriber of record must be the -- is the  
24 individual authorized to make a change? And I say  
25 that because if you called AT&T and told them you

1 wanted to change -- if you called BellSouth and told  
2 them you wanted to change from MCI to AT&T, is there a  
3 question that they must ask, like, "Are you the  
4 subscriber of record?" And if your answer is no, then  
5 they can not change. If your answer is yes, then they  
6 can change. Is there something, clear guideline,  
7 standard or prompt question they can ask to protect  
8 themselves.

9           **WITNESS TAYLOR:** Our rules go to the  
10 customer's authorization, and to me the customer is  
11 the subscriber of record. It's not just anyone that  
12 answers the telephone at that number. I guess -- so  
13 I'm interpreting "customer." And our rules say the  
14 customer's authorization.

15           **CHAIRMAN JOHNSON:** So perhaps we may want to  
16 clearly define customer, or do you think it is  
17 self-defining?

18           **WITNESS TAYLOR:** It wouldn't hurt to define  
19 it as subscriber of record, I think.

20           **COMMISSIONER CLARK:** I think we have to  
21 consider the flip side to that. I think my phone is  
22 in my husband's name, and I would get pretty  
23 aggravated if they said, "You're not the customer of  
24 record and you can't change it." So I'm just  
25 suggesting there are two sides to that. But I think

1 it does need to be clearly stated who can authorize a  
2 PIC change and who can't.

3           **COMMISSIONER GARCIA:** I would, however,  
4 Commissioner Clark -- I agree with that, but I would  
5 probably say that to some degree in the business end  
6 but -- if you'll recall some of the customer hearings  
7 we went to, the businesses had a particularly hard  
8 time because they have a receptionist that might say,  
9 "Yeah, go ahead." You're right. In the business  
10 perspective I think the stringency is particularly  
11 important. But I think in the domestic, I agree with  
12 you, that there should be some leeway. And that's why  
13 I think Ms. White's question is particularly  
14 pertinent. And I think you made that point, also,  
15 about giving a certain discretion to Staff on how it  
16 applied sanctions.

17           **COMMISSIONER CLARK:** Let me just say that's  
18 an important point. If you are going to apply  
19 sanctions, I think you have to be extremely careful as  
20 to whether or not the rule has been violated and it  
21 can't be left to discretion. In this one instance  
22 we're going to say that the spouse could authorize it,  
23 and in another one we're going to say that they can't.

24           But I think you can have different  
25 requirements for residential and different

1 requirements for business. I think there's nothing  
2 wrong with saying to a business you need to indicate  
3 to the phone company who has the authority to  
4 change -- make any changes to your phone service. And  
5 you might have a different standard for residential.

6 But I'm -- the fact that we're going to  
7 impose sanctions, and the fact we're going to, I hope,  
8 be very vigorous in our enforcement of the rule  
9 requires us to be precise.

10 COMMISSIONER GARCIA: I agree.

11 CHAIRMAN JOHNSON: Ms. Caswell.

12 CROSS EXAMINATION

13 BY MS. CASWELL:

14 Q I do have a few questions, Mr. Taylor.

15 Kim Caswell with GTE.

16 Can you tell me, Mr. Taylor, if you think  
17 most customers would know what a certificate number  
18 is?

19 A Well, perhaps if they used a plumber or  
20 contractor, and there was a license number on the bill  
21 that they got from the plumber or contractor, they  
22 would recognize that a certificate number is -- you  
23 know, relates to the company's authorization to do  
24 business within a state.

25 COMMISSIONER CLARK: Ms. Caswell, can I

1 interrupt you just a minute?

2 I read some of the comments with respect to  
3 the certificate number. Is there still a view on  
4 Staff's part that that needs to be kept?

5 WITNESS TAYLOR: Yes.

6 COMMISSIONER CLARK: And if so, why?

7 WITNESS TAYLOR: Yes, it should be kept.

8 And the reason is that often bills are rendered by  
9 companies who are not certificated. And I think that  
10 the industry can help reduce slamming by making sure  
11 that downstream resellers that it renders bills for  
12 have a certificate, and if they need the certificate  
13 number to go on the bill, they will do that.

14 COMMISSIONER GARCIA: But can BellSouth bill  
15 for an uncertificated carrier?

16 WITNESS TAYLOR: I guess this is aimed  
17 primarily not at BellSouth or at GTE but at the long  
18 distance industry, and, yes, they can bill for  
19 uncertificated entities. There are examples in my  
20 testimony.

21 COMMISSIONER GARCIA: Who would you be  
22 speaking about? Just remind me of the examples in  
23 your testimony.

24 WITNESS TAYLOR: Okay. The letters that are  
25 in Exhibit 1, JAT-1, from Killearn Brokers Realty that

1 state that they were slammed and didn't know they were  
2 slammed for seven months because only AT&T's name was  
3 on the bill. They didn't know they were really  
4 getting service from a uncertificated entity called  
5 Combined Companies, Inc.

6 COMMISSIONER GARCIA: Okay.

7 Q (By Ms. Caswell) Wouldn't the solution to  
8 that problem, though, be to put the underlying  
9 carrier's name on the bill. Because the name would  
10 mean something to the customer, wouldn't it?

11 A Not if when you call -- the subscriber calls  
12 AT&T. AT&T says, "No, you were slammed. You're a  
13 subscriber of Combined Companies. You're not our  
14 customer."

15 Q But then, again, if the name and phone  
16 number of that underlying carrier were on the bill, he  
17 would never have called AT&T, would he?

18 A Well, if the name and phone number of the  
19 underlying carrier were on the bill --

20 Q Right.

21 A -- they would probably call that carrier.

22 Q Right. So that would be --

23 A But if they were not happy with how the  
24 carrier responded to the claim and called us, we would  
25 have no record of that company, even though we would

1 have a telephone number.

2           **COMMISSIONER GARCIA:** Let's stay right  
3 there, though. Wouldn't we have a record? Because  
4 GTE would not be billing for someone who is not a  
5 certificated carrier. And the name of the carrier  
6 would still be required on the bill.

7           **WITNESS TAYLOR:** I guess I'm not really  
8 talking about a GTE or LEC bill. I'm talking about  
9 interexchange carrier bills and those bills directly.

10           **Q**        **(By Ms. Caswell)** But this rule would  
11 affect GTE in the sense that those certificate numbers  
12 would have to go on GTE's bill, correct?

13           **A**        Yes.

14           **Q**        And how -- I think you indicated that the  
15 certificate number might help you, perhaps, research  
16 the problem, but how would it remedy confusion on the  
17 customer's part, which I think is the rationale you  
18 set forth in your testimony.

19           **A**        Well, the consumer would have the  
20 information to know that the carrier was certificated  
21 and, in theory, if they had a certificate, they know  
22 the rules and the rates would be on file. There are  
23 consumer protections built into this.

24           **Q**        Why would the customer care if the entity  
25 were certificated? I mean, isn't his concern that

1 he's been slammed and he wants to be changed back and  
2 he needs to know the name of the carrier that slammed  
3 him?

4       A     Well, I guess I just fundamentally don't  
5 understand what's wrong with informing a consumer of  
6 who is billing them and what their certificate number  
7 is.

8           **COMMISSIONER JACOBS:** Let's say it was an  
9 approved change, but the company that got the  
10 authorization is not certificated. How would that  
11 customer know what their charges are going to be?

12          **WITNESS TAYLOR:** Well, there certainly would  
13 be no tariff on file if the company were not  
14 certificated.

15          **COMMISSIONER JACOBS:** So how would they  
16 know?

17          **WITNESS TAYLOR:** Well, they wouldn't know,  
18 and in many cases they find out, and the complaints  
19 that we have are that the charges turn out to be  
20 higher in many cases.

21          **COMMISSIONER JACOBS:** When do they find that  
22 out?

23          **WITNESS TAYLOR:** After they get a bill.

24          **COMMISSIONER JACOBS:** From who?

25          **WITNESS TAYLOR:** From the -- either the

1 uncertificated provider or the underlying carrier.

2           **COMMISSIONER JACOBS:** How do those charges  
3 get effected -- I'm kind of being simplistic but I  
4 really want to walk through this.

5           They get a bill from a carrier that tells  
6 them -- that gives them detail about a choice they  
7 made to change to a different carrier, and then  
8 they're going to have to figure out what charges they  
9 approved from that bill; is that correct?

10           **WITNESS TAYLOR:** Yes.

11           **COMMISSIONER JACOBS:** Okay.

12           **CHAIRMAN JOHNSON:** Any other questions?

13           **COMMISSIONER JACOBS:** I'm done.

14           **Q**        (By Ms. Caswell) I think, Mr. Taylor,  
15 before that exchange you noted that your objective was  
16 to inform customers of who is billing them. But  
17 wouldn't the name and phone number of the company that  
18 billed them be the best information to inform the  
19 customer of that fact?

20           **A**        Certainly it's good information and the rule  
21 requires it, but we think that, based on the  
22 complaints and our experience here, that the  
23 certificate number is needed because we think that  
24 many slams are, if you will, perpetuated within the  
25 industry by individuals or companies, entities who

1 because they are noncertificated maybe don't know the  
2 rules and the requirements. Today those entities are  
3 routinely provided service and routinely serve  
4 subscribers in Florida, and we have to find them after  
5 the fact.

6           **COMMISSIONER GARCIA:** Alan, let me just get  
7 an understanding of the distinction. You believe that  
8 that certificate number would almost be like an ID  
9 number, and it would help us deal with the complaints  
10 much quicker, and it would alert the billers whether  
11 someone is certificated or not much quicker, correct?

12           **WITNESS TAYLOR:** Yes, I do believe that. I  
13 believe that having the certificate number would also  
14 require the underlying carrier to make sure that  
15 before they billed on behalf of someone who did not  
16 have a certificate, that they had a certificate number  
17 with which to bill in Florida. So I think, you know,  
18 it's an effort to try to help us stop slams rather  
19 than react to slams.

20           **Q**       **(By Ms. Caswell)** But why does that  
21 certificate number have to be on the bill as opposed  
22 to in records of the aggregator or the clearinghouse  
23 if that's the root of the problem here?

24           **A**       I'm sorry, Kim, was that a question?

25           **Q**       Why does the certificate number have to be

1 on the bill as opposed to in the records of the  
2 carrier or in the billing contracts between, you know,  
3 whatever entities are involved. You said you're not  
4 speaking about GTE, but I don't know who you're  
5 talking about other than perhaps aggregators.

6 A Well, that is really who I'm talking about  
7 is aggregators.

8 Q Why does that number have to be on the bill  
9 as opposed to someplace else in their records?

10 A Well, it's been our experience that it's not  
11 anyplace in their records.

12 Q But does that imply the certificate number  
13 on the bill would be the correct solution as to -- as  
14 against maybe stepping up your requirements, you know,  
15 and recordkeeping somewhere else?

16 A Today many carriers claim to provide service  
17 from their interstate tariffs. And they provide  
18 service to Floridians from that tariff without regard  
19 to whether the person on whose behalf they are  
20 providing the underlying service for, whether they  
21 have a certificate or not.

22 I think that it would be helpful to  
23 consumers, as well as to the Commission, to ensure  
24 that the downstream resellers are adequately  
25 identified, and to make sure that they are

1 certificated before the underlying carrier bills for  
2 them. This aspect of the rule requirement is directed  
3 at that problem.

4 Q I'm going to go back to my first question  
5 because I don't think I ever got a yes or no answer.

6 Do you think that most consumers know what a  
7 certificate number is?

8 A I don't know. I haven't done any survey.

9 Q Assuming that most consumers don't know what  
10 it is and that information appears on the bill, isn't  
11 there a potential for consumer confusion about  
12 meaningless information on this bill?

13 A Well, I would certainly argue that the  
14 consumer needs more information rather than less. And  
15 so certainly, you know, I'm better able to deal with  
16 complaints if I can point to the consumer to  
17 information on the bill and explain it to him if he  
18 didn't see it or understand it.

19 Q Okay. But again we're trying to separate  
20 what is useful for you as opposed to what is useful  
21 for the consumer. And isn't it true that more  
22 meaningful information on the bill is beneficial for  
23 the consumer, but that more information in general on  
24 the bill is not necessarily beneficial for the  
25 consumer. Would you agree with that?

1           A     Well, I certainly don't want any useless  
2 information on the bill. But I think that a  
3 certificate number is useful because we do have a law,  
4 we do have a requirement that resellers in Florida be  
5 certificated. And to demonstrate that they have the  
6 authority to operate by providing their certificate  
7 number seems to be a very reasonable requirement.

8           Q     Have you considered who might pay for that  
9 requirement, of putting the certificate numbers on the  
10 bills?

11          A     Well, the providers.

12          Q     And who would ultimately pay for that  
13 requirement? Wouldn't it be the consumers?

14          A     Well, I guess you could certainly say that.

15          Q     Moving on to another area, Mr. Taylor, would  
16 you agree that most slamming is the result of  
17 deliberate action on the part of a relatively few  
18 companies?

19          A     Yes.

20          Q     So would you also agree that putting most or  
21 all of these companies out of business in Florida  
22 would stem slamming problems?

23          A     Yeah, but first we've got to know who they  
24 are.

25          Q     Is that a yes or a no?

1           **A**     Well, what you're asking me is the standard  
2 industry response to penalize the violators, and that  
3 certainly is a good way to go after things, but you  
4 have to be able to know who those violators are.

5           **Q**     So is that a yes or a no?

6           **A**     Okay. Let me just ask you to ask the  
7 question one more time and I'll give you a yes or a  
8 no.

9           **Q**     Would you agree that putting most of these  
10 companies, these bad actors, out of business in  
11 Florida would help stop slamming?

12          **A**     Yes.

13          **Q**     And some of the ways that you might put them  
14 out of business would be stiffer fines and more severe  
15 conditions on their business in Florida. Wouldn't  
16 that be true as well?

17          **A**     Assuming they stayed around to wait for our  
18 administrative function to react, and assuming they  
19 hadn't already left town with the loot, maybe that's a  
20 good process. But my testimony, there's an exhibit  
21 that suggests that many times these businesses operate  
22 for a limited time and leave town and they are able to  
23 do that without ever being certificated or without  
24 ever being responsible for the slams they incur  
25 because the underlying carriers submit the PIC changes

1 for them, or provide the underlying service to  
2 uncertificated entities. So I think the certificate  
3 number needs to be provided to prevent that from  
4 continuing to happen.

5 Q Okay. I'm trying to get off the subject of  
6 certificate number. We're not talking about that  
7 anymore. I'm talking about the Commission's efforts  
8 to reduce slamming.

9 And I'm going to ask you if it's true if the  
10 Commission has recently stepped up its enforcement  
11 activity, perhaps imposing potentially greater fines  
12 and more severe conditions on business operations in  
13 Florida?

14 A We've certainly initiated recommendations  
15 also that do suggest -- I think the answer is yes.

16 Q And do you recommend these increased fines  
17 and other conditions? Were you part of that  
18 recommendation?

19 A Yes.

20 Q When did that increased enforcement activity  
21 begin around, do you have any idea?

22 A Well, I think the increased fine amounts,  
23 that decision was made last summer. I think the  
24 increased enforcement efforts certainly were  
25 stimulated by the Attorney General's petition, as well

1 as our concern over the volume of slamming complaints  
2 that we continue to get.

3 Q Have those increased enforcement efforts  
4 been in effect long enough for you to know if they  
5 have had any beneficial effect on incidents of  
6 slamming in Florida?

7 A Probably not.

8 COMMISSIONER GARCIA: The question is has  
9 slamming gone down the last few months?

10 WITNESS TAYLOR: And I don't believe it has  
11 but I don't know. I don't have the Consumer Affairs  
12 report in front of me.

13 Q (By Ms. Caswell) Right. I assume that  
14 many of the Show Cause Orders have not sort of wended  
15 their way through the Commission's procedures yet.  
16 Would that be correct?

17 A That's true.

18 Q In your testimony I think you've referred to  
19 acceptable slamming levels, you use the term  
20 "acceptable levels" when you're talking about the  
21 Commission's existing measures being inadequate to  
22 curb slamming. And I think Mrs. Caldwell asked you  
23 earlier as to whether you had an opinion as to what an  
24 allowable slamming level would be. I'm going to ask  
25 the same question with regard to the term

1 "acceptable." Do you have an opinion as to what an  
2 acceptable slamming level would be?

3 A I'll know it when I see it, but -- no,  
4 that's not a real answer.

5 Q But at the same time I think you've also  
6 testified that we need to balance the benefits of a  
7 competitive market with the needs of consumers to have  
8 control over their numbers in determining what  
9 measures we might institute from this proceeding; is  
10 that right?

11 A Yes.

12 Q Wouldn't that balancing process imply,  
13 though, that you have some sort of conception of what  
14 an acceptable slamming level might be?

15 A Yes. You know, clearly there will be  
16 indications; complaints will go down, you know.

17 Q I guess another way of asking the  
18 question --

19 A If it ever gets down to just the spouses  
20 fighting over the slam, then that's probably -- I  
21 won't worry about it too much.

22 Q Okay. So you think -- do you think that we  
23 should institute anti-slamming measures no matter what  
24 their cost?

25 A Well, costs are certainly a consideration.

1 But I believe that the consumer's cost has to be  
2 considered. I know that in the Telecom Act of 1996  
3 the industry is fairly well insulated from any loss of  
4 revenue. And to this point there have been -- you  
5 know, that Act doesn't address the consumer's loss.  
6 And certainly I think the industry has to reconcile  
7 the issue of if it takes more effective verification  
8 procedures there will be less complaints, less  
9 expense. So I think you have to balance the savings  
10 against the added costs that you are suggesting might  
11 occur.

12 Q So you would agree that you need to do some  
13 kind of cost/benefit analysis to determine whether we  
14 should undertake these rules?

15 A I don't think -- I wouldn't agree that these  
16 rules only engender cost; they do engender savings to  
17 the industry potentially as well.

18 Q Mr. Taylor, I think you criticized the LECs'  
19 billing systems for their ability to provide open  
20 access to just about anybody who wants to bill. Can  
21 you tell me if the LECs' billing services are tariffed  
22 in Florida?

23 A They may be, yes.

24 MS. CALDWELL: Excuse me. Isn't that  
25 outside of the testimony that we've stricken?

1           **MS. CASWELL:** I didn't think -- I thought  
2 his criticism of the LECs' billing system went beyond  
3 the billing block, but if you tell me that it doesn't,  
4 then I'll drop these questions.

5           **WITNESS TAYLOR:** That was my billing block.

6           **Q**        **(By Ms. Caswell)** That was within the  
7 billing block issue.

8           **A**        Yes.

9           **Q**        Solely. Okay.

10           **MS. CASWELL:** That's all I've got. Thank  
11 you, Mr. Taylor.

12                                   **CROSS EXAMINATION**

13           **BY MR. MCGLOTHLIN:**

14           **Q**        Mr. Taylor, Joe McGlothlin. It struck me as  
15 I was sitting here waiting my turn that I wish I could  
16 see you across the room half as well as I could see  
17 Mr. Garcia across the stage, but maybe we can get  
18 along by long distance anyway.

19                    I want to go back to some earlier questions  
20 that were asked of you with respect to identifying the  
21 subscriber of record. And Commissioner Clark touched  
22 on this already to some extent.

23                    Would you agree with me, sir, that in the  
24 context of business customers, the fact that a  
25 corporation may delegate the responsibility for phone

1 service to a particular person or particular officer  
2 complicates the situation when a marketing carrier is  
3 told by the contact at the company that the company  
4 wishes to change?

5 A Yes.

6 Q And with respect to considering a  
7 requirement that the phone company identify the  
8 individual within a business customer who has a  
9 responsibility, do you know presently whether an IXC  
10 or ALEC would have access to that information under  
11 present regime?

12 A No, I don't, but I don't think, you know,  
13 the IXC should decide, "Well, I don't have that  
14 information, so I'll just take the CENTREX or the PBX  
15 operators's decision on the matter." So I think you  
16 do have to do some investigation. I think there is a  
17 burden on the carrier seeking to change the service to  
18 get to the proper individual to make that decision.

19 Q Well, that's twice now that an illustration  
20 has used the example of a receptionist or a PBX  
21 operator. But it's possible, isn't it, sir, that a  
22 marketing IXC can be speaking to someone they would  
23 have reason to believe they have the responsibility  
24 and authority to make that change and rely on it?

25 A Well, I'd have to say sometimes it's mighty

1 easy for them to think they are talking with somebody  
2 that has the authority to do it.

3 Q You would agree --

4 A Well, certainly it's possible.

5 Q I also want to talk to you about the subject  
6 of certificate numbers. I want to come at it a little  
7 different way. Let me refer you to Page 3 of our  
8 prefiled testimony.

9 CHAIRMAN JOHNSON: How much will you have?

10 MR. McGLOTHLIN: I would think 15 minutes or  
11 so.

12 CHAIRMAN JOHNSON: We need to take a lunch  
13 break. We're going to take a 30-minute lunch break at  
14 this time and we'll start back with your questions.

15 We'll begin at 12:50.

16 (Lunch recess taken.)

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19 (Transcript continues in sequence in Volume 2.)

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