

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 - AFTERNOON SESSION

VOLUME 2

Pages 152 through 314

PROCEEDINGS:           RULE HEARING

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

APPEARANCES:           (As heretofore noted.)

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**PROCEEDINGS**

(Hearing reconvened at 12:50 p.m.)

**CHAIRMAN JOHNSON:** Mr. Taylor, we're getting ready to go back on the record. We'll go back on the record. Mr. McGlothlin.

**JAMES ALAN TAYLOR**

resumed the stand as a witness on behalf of Staff of the Florida Public Service Commission and, having been previously sworn, testified as follows:

**CONTINUED CROSS EXAMINATION**

**BY MR. MCGLOTHLIN:**

**Q** Mr. Taylor, I believe in answering Ms. Caswell's questions you agreed that as a general proposition the costs of regulation are ultimately borne by the consumers; isn't that correct?

**A** Yes.

**Q** And for that reason would you agree it's important to weigh the costs of a proposal and compare that with the benefits to see if one is commensurate with the other before making a decision to adopt additional regulations?

**A** Yes. And certainly you would have to also consider the reduction in slams that would occur and the benefits of reducing complaints and lowering your cost to respond to regulatory inquiry. So yes, on the

1 whole, you would have to consider all of that.

2 Q And one of the recommended changes to  
3 existing rules is to require carriers to show the  
4 certificate numbers of the carrier on the bills that  
5 are rendered for that service, correct?

6 A Yes.

7 Q Please turn to Page 3. That is one of the  
8 several recommended changes to 25-4.110. And the  
9 various changes include a requirement that bills  
10 display for each service included on the bill the name  
11 of the certificated company, its certificate number,  
12 its toll-free customer service number. In addition,  
13 subscribers must be notified on the first bill, and  
14 annually thereafter, that a PIC freeze is available,  
15 and also give notice on the first and second page of  
16 this bill when his provider is changed.

17 And in terms of the benefits to be ascribed  
18 to the several changes to 4.110 you begin to describe  
19 those on Page 4 at Line 3. And the first one is that  
20 these requirements will serve to alert subscribers to  
21 the fact that they may have three providers: one for  
22 local, one for local toll and one for toll.

23 Now, the requirement they have a certificate  
24 number appear on the bill is not related to that  
25 benefit, is it?

1           A     I'm sorry, Joe, was that a question at the  
2 end?

3           Q     Yes.

4           A     It's not related to what?

5           Q     With respect to the various changes to 4.110  
6 of which the requirement that the certificate number  
7 appear on the bill is one, you described the benefits  
8 or the justification for that, for those changes  
9 beginning at Page 4, Line 3. I want to take the  
10 several that are there one at a time.

11                     The first one is that the requirements,  
12 plural, will alert -- will serve to alert subscribers  
13 to the fact that they may have three providers: one  
14 for local, one for local toll and toll. Subscribers be  
15 able to tell from a review of their bill which  
16 providers are providing each service for which they  
17 are billed.

18                     Now, with respect to the several changes  
19 that this paragraph is describing, the requirement  
20 that a carrier's certificate number appear on the bill  
21 is unrelated to this particular benefit, would you  
22 agree? (Pause)

23           A     Well, I don't think it's unrelated because  
24 it is providing information to consumers, and I think  
25 that our complaint level suggest to us that consumers

1 don't have enough information. So I think it is  
2 related.

3 Q How would having the certificate number  
4 inform the customers that they may have three  
5 providers, one for local, one for local toll and one  
6 for toll, if the bill also shows the names of the  
7 carriers?

8 A Well, it would inform the subscriber that  
9 the carrier was authorized to be a carrier. It is  
10 additional information.

11 COMMISSIONER GARCIA: Joe, could you ask  
12 that question again?

13 MR. McGLOTHLIN: Yes. Let me just --

14 COMMISSIONER GARCIA: Put it in context for  
15 me. I'm sorry.

16 MR. McGLOTHLIN: Let me ask it differently.

17 Q (By Mr. McGlothlin) This paragraph  
18 describes the benefits that you see collectively from  
19 the several changes that you describe in an earlier  
20 page, among which is the requirement that a carrier's  
21 certificate number be included on the bill that the  
22 customer receives.

23 Would you agree that the certificate number  
24 is not going to inform the customer of the providers  
25 of toll, local toll and local service the names of the

1 provider?

2           A     I agree with that, Joe, but certainly it  
3 informs the subscriber about the provider. It gives  
4 them additional information about the provider.

5           Q     The next benefit that is described in your  
6 answer on Page 4 is that subscribers also deserve to  
7 be informed they have a PIC freeze option and clearly  
8 subscribers should have effective notice when their  
9 provider is changed.

10           Now, would you agree with me that placing  
11 the certificate number of the carrier on the bill that  
12 the customer receives is unrelated to that particular  
13 benefit; that benefit is conferred by other changes?

14           A     I agree.

15           Q     And then at the bottom of Page 4 in response  
16 to the question, "Are there other reasons to require  
17 the name and certificate number of the carrier  
18 claiming the subscriber on the bill?" You say "This  
19 requirement will help ensure that underlying carriers  
20 do not provide those services to companies that are  
21 not certificated because the certificate number would  
22 have to be known before a bill could be rendered by  
23 the underlying provider." And that's what you were  
24 referring to also when you answered Ms. Caswell's  
25 questions; is that correct?

1           **A**     Yes.

2           **Q**     Would it be fair to say that in terms of  
3 justifying the additional measure of placing the  
4 certificate number on the bill, this is the principle  
5 justification that you see for that particular  
6 requirement?

7           **A**     Well, it's certainly a major one, I guess.

8           **Q**     Now, let's focus on that last answer on  
9 Page 4 for just a second. It says "It will help  
10 ensure that underlying carriers do not provide  
11 services to companies that are not certificated  
12 because the certificate number would have to be known  
13 before a bill could be rendered by the underlying  
14 provider."

15                    Would you agree with me that informing the  
16 underlying provider of the certificate number of the  
17 carrier on the one hand, and then taking measures to  
18 print the number of the certificate on the bill  
19 received by the customer on the other hand are two  
20 separate steps?

21           **A**     Sure.

22           **Q**     Would you agree with me that if the  
23 objective is to make sure that the underlying carrier  
24 has evidence that a provider has a valid certificate,  
25 that can be accomplished by Step 1, which is separate



1 from the step of placing that number on the bill to be  
2 received by the customer?

3       A     Well, if the industry agreed to police its  
4 resellers in that way, I agree that that may occur.  
5 To this point I haven't seen that level of cooperation  
6 from the industry, and I believe it's important,  
7 therefore, that consumers have information with which  
8 we can address their concerns about particular  
9 companies. And if we have no record of the company,  
10 even though the name is there, we cannot help the  
11 consumer, at least not immediately. And slams are  
12 more likely to occur because an uncertificated entity  
13 may not follow the rules. So you understand exactly  
14 where I'm going on this. That's the reason I think  
15 it's necessary.

16           **CHAIRMAN JOHNSON:** Excuse me. Let's go off  
17 the record for a second.

18           (Discussion off the record.)

19           **CHAIRMAN JOHNSON:** We'll go back on the  
20 record.

21       Q     (By Mr. McGlothlin) I think your first  
22 part of the response was that if the underlying  
23 carriers would police the activities with the  
24 providers, the additional step of putting certificate  
25 numbers on the bill would be unnecessary; is that

1 correct?

2           A     I'm sinking fast here. (Witness's chair is  
3 sliding down.)

4                     I would not have proposed this rule change  
5 if I was not having to deal with uncertificated  
6 providers providing service and not following the  
7 rules. So I guess the answer to your question is if  
8 they did do it, no, I wouldn't have any complaints  
9 that resulted from it and I wouldn't need this rule.

10           Q     Do the existing rules explicitly require the  
11 underlying carrier to obtain from the provider  
12 evidence in the form of a copy of a certificate or  
13 certificate number, evidence of authority from this  
14 Commission before agreeing to carry that provider's  
15 service?

16           A     No.

17           Q     Would it be possible to look at an  
18 alternative to this certificate number being printed  
19 on the bill, look to that form of a requirement as a  
20 step that would accomplish the same objective?

21           A     If you and your compatriots here would agree  
22 to that, that's fine with me.

23           Q     So Page 5, Mr. Taylor, at Line 16, this is  
24 an additional response by you to a question bearing on  
25 the problem of uncertificated carriers. And at

1 Line 16 you say that requiring the certificate number  
2 to be displayed on the bill "will assist the  
3 Commission in identifying the carrier when we receive  
4 consumer bills. Without the certificated name of the  
5 carrier on the bill, staff also has difficulty in  
6 determining the provider responsible for the charges  
7 involved."

8           Now, isn't it necessary to distinguish here  
9 between the information you get from the name on the  
10 bill on the one hand, and the certificate number on  
11 the other?

12           A     Well, I guess, yes. I think we need both.

13           Q     Well, if you have the name of the carrier on  
14 the bill, doesn't that give Staff the information it  
15 needs to determine the provider responsible for the  
16 charges involved?

17           A     Only if the name on the bill is  
18 certificated carrier.

19           Q     All right. And if the name on the bill is  
20 not a certificated carrier, comparing the name with  
21 the certificate information you have here at the  
22 Commission, we can give you that information as well,  
23 wouldn't we?

24           A     I'm sorry, say that again.

25           Q     Well, if you receive a complaint from

1 Carrier X and you determined by your records that  
2 Carrier X doesn't have a certificate, you would have  
3 determined the same information without having the  
4 certificate number on the bill, correct?

5 A Well, I guess I wouldn't even be looking, if  
6 the certificate number was on the bill I wouldn't need  
7 to look to see whether Carrier X had one or not.

8 Q Yes, sir. I'm going to the statement of  
9 Lines 18 and 19, without the certificated name of the  
10 carrier on the bill, Staff also has difficulty in  
11 determining the provider responsible for the charges  
12 involved. Now, if the objective is to determine the  
13 provider responsible for the charges involved, isn't  
14 the name of the carrier sufficient for that purpose?

15 A The name of the carrier is sufficient for --  
16 yes.

17 COMMISSIONER GARCIA: Which is more  
18 efficient, though, Mr. Taylor?

19 WITNESS TAYLOR: I think we need both  
20 because I think the industry needs to help us. It's  
21 in their interest, I would think, to have the  
22 certificate number on the bill.

23 COMMISSIONER GARCIA: Express to me exactly  
24 why it's in the industry's interest to have that  
25 number on the bill?

1           **WITNESS TAYLOR:** Because that helps ensure  
2 that consumers for whom they are changing their  
3 primary carrier, that those consumers are solicited  
4 and their PIC is changed pursuant to the rules that  
5 you have prescribed, and it would be less likely that  
6 a complaint would result. So I think it's a way of  
7 reducing complaints and helping to police the  
8 industry.

9           **Q**     Going back to the point about identifying  
10 the responsible provider efficiently, certainly the  
11 Commission, the Staff, have available to them in this  
12 building or in their records the names of all of the  
13 certificated carriers and the certificate numbers; is  
14 that correct?

15           **A**     Yes.

16           **Q**     So if you get from a unhappy customer the  
17 name of the provider, you can ascertain the  
18 certificate number based upon existing information,  
19 correct?

20           **A**     Yes.

21           **Q**     And so if this measure were to be adopted,  
22 and if the carrier were required to expend time and  
23 money to put that into effect, would you agree that  
24 that is getting the same information through a more  
25 expensive process?

1           A     Well, again, if they're certificated I don't  
2 have a problem. The problem I'm trying to address is  
3 the fact that a significant number of unauthorized  
4 changes occur at the request of uncertificated  
5 entities. This is the problem I'm trying to address.

6           Q     I understand, sir.

7                     And if the bill contains the name of the  
8 provider and you get a copy of the bill or a complaint  
9 from a customer that gives you the name of the  
10 provider, you can ascertain immediately whether or not  
11 the provider has an existing certificate, correct?

12          A     Yes.

13          Q     Okay. On Page 6, Mr. Taylor, at Lines 5  
14 through 8, you make this statement: "Therefore, the  
15 industry should be free to, if required, verify that  
16 each reseller has a certificate for each state in  
17 which phone subscribers are billed." Going back to  
18 the same point, would you agree that verifying the  
19 existence of a certificate is a step separate and  
20 apart from the requirement that the certificate number  
21 be printed on the bill?

22          A     Right. I'm saying there that the underlying  
23 carrier should have no trouble getting the information  
24 that it needs in the form of a certificate number if  
25 it needs it.

1 Q At the bottom of Page 6 --

2 MR. McGLOTHLIN: Those are all of the  
3 questions that I have, Chairman Johnson.

4 CROSS EXAMINATION

5 BY MR. NELSON:

6 Q Mr. Taylor, I'm Rick Nelson representing  
7 MCI. I believe we've met before.

8 I believe in response to an earlier question  
9 by Ms. Caswell about a reference in your testimony to  
10 acceptable level of complaints you said, if I remember  
11 it correctly, you'd know it when you saw it?

12 A Yes.

13 Q Has the Staff done any information gathering  
14 to determine how many PIC changes take place in  
15 Florida over the course of a year?

16 A No.

17 Q So your rules are based simply on the raw  
18 number of complaints that you see, or the testimony  
19 that has been received at these customer meetings  
20 without necessarily knowing how many PIC transactions  
21 occur without complaints. Is that a fair --

22 A Yes. We're certainly responding to consumer  
23 concerns, not industry concerns.

24 Q Let me ask you about the piece of the rule  
25 that has to do with LOAs and LOAs being separate from

1 any other document. Can you find that piece in the  
2 rule. I don't know which version you're working from.  
3 It's on Page 35 of the Notice of Rulemaking.

4 A Under what rule number is it? .118?

5 Q Yes, sir. .118(4).

6 A Yes.

7 Q Are you with me?

8 The rule as it's written today permits a LOA  
9 to be combined with an inducement so long as the  
10 combined document is not misleading; is that correct?

11 A Yes.

12 Q And if I understand the rule correctly, if  
13 the proposed amendment was adopted, the LOA would have  
14 to be totally separate and could not be combined with  
15 an inducement; is that right?

16 A Yes.

17 Q What is the situation that you are  
18 attempting to remedy by that change to the rule?

19 A Well, I suppose it would be primarily the  
20 sweepstakes entries and those LOAs that could be read  
21 in a number of different ways by subscribers where it  
22 would not be clear to them that they were agreeing to  
23 change their long distance carrier, instead of just  
24 agreeing to win a Mustang or something like that.

25 Q But isn't that unclear LOA already covered



1 by the existing rule which says that in the combined  
2 situation the document as a whole must not be  
3 misleading or deceptive, and then goes on to define  
4 misleading or deceptive, including among other things  
5 being unclear to the customer who the new provider  
6 would be?

7       A     I certainly see your point. But based on  
8 complaints that we have, these words have not  
9 protected consumers from having their service changed  
10 against -- without their authorization.

11               Based on the complaints we have, customers  
12 tell us that they didn't know they were agreeing to  
13 change their service. So we find the operation of  
14 this paragraph to be inadequate.

15       Q     Let me ask this: Have you taken any  
16 enforcement action against carriers under this  
17 paragraph based on consumer complaints that a  
18 particular sweepstakes entry or particular document  
19 was deceptive and misleading?

20       A     We've initiated investigations, yes.

21       Q     I guess my question is, is it your -- well,  
22 two questions. First, is it really the sweepstakes  
23 that are the problem?

24       A     It's the most significant part of the  
25 problem.

1 Q And second, in the context of sweepstakes,  
2 have you brought enforcement proceedings against  
3 carriers saying, "Look, we believe your sweepstakes  
4 entry form is misleading"?

5 A I know that there's -- I believe we have a  
6 docket open today on at least one case, yes.

7 Q Now, I don't -- I want to leave the record  
8 clear, I don't believe MCI uses sweepstakes so that's  
9 not really the thrust of my question. The thrust of  
10 my question is whether we're throwing the baby out  
11 with the bath water here. If the problem is  
12 sweepstakes entries, is it true that this rule as  
13 proposed would prohibit a frequent flier mile award if  
14 those were on the same document as the LOA?

15 A Yes.

16 Q And isn't it true that it would prevent the  
17 kind of checks that I received from AT&T, but,  
18 unfortunately, am precluded from cashing that say if I  
19 endorse this check they will change my carrier?

20 A Yes.

21 Q Has either of those activities, to your  
22 knowledge, been a significant source of complaints?

23 A Not significant. I don't recall one on MCI.  
24 But as far as the check business, I think there was at  
25 least one.

1           **COMMISSIONER CLARK:** At least one.

2           **WITNESS TAYLOR:** At least one complaint.

3           **Q**        **(By Mr. Nelson)** I also want to talk a  
4 minute about the provisions of the rules on methods  
5 for verifying a PIC change. And while there are four  
6 methods in the rule, is it fair to say that under  
7 any -- either you have to have a written LOA signed by  
8 the customer either up front or a return postcard, or  
9 you've got to have a customer contact that was audio  
10 recorded.

11           **A**        Yes.

12           **Q**        I believe this question was deferred to you  
13 earlier. Do you know, has the Staff done any study of  
14 consumer reactions to having their calls tape  
15 recorded?

16           **A**        No.

17           **Q**        And other than the data request that was set  
18 out as part of the economic -- or the Statement of  
19 Estimated Regulatory Costs has the Staff done any  
20 study of the cost in making, archiving or retrieving  
21 audio recordings?

22           **A**        No. Beyond the SERC, no.

23           **MR. NELSON:** That's all I've got. Thank  
24 you, Mr. Taylor.

25

**CROSS EXAMINATION**

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**BY MR. BOYD:**

**Q** I'm Everett Boyd for Sprint. I'll ask you just a couple questions, please, sir.

On Page 8 of your testimony, Lines 8 and 9, you refer to one shouldn't feel obligated to pay a bill from someone with whom they do not have a account. And I just want to follow up on that.

Wouldn't an example of a 10XXX call dialed by a consumer be a situation where there's not an underlying account, but it would be inappropriate for a bill to be rendered and paid by the customer?

**A** Yes.

**Q** And similarly wouldn't a collect call placed to a customer and accepted where that IXC was not the presubscribed company of the called person also be another example where there wouldn't be an underlying account?

**A** Well, they don't have a underlying account but they've agreed to accept a collect call. In theory what this does is identifying the person responsible for the charges on the bill.

**Q** And those two types of examples is not what you were referring to in your testimony, are they?

**A** That's right.

1 Q Let me go back to the LOA process and the  
2 telemarketing issues briefly.

3 Are you aware of any form of database that a  
4 marketing IXC can consult to learn the actual name of  
5 the customer with the LEC?

6 A I believe if in the scenario you just  
7 discussed, a casual call, for instance, that if you've  
8 obtained that number, the phone number of an account  
9 for which you intend to bill, that you can obtain the  
10 customer name and address under tariffs, the local  
11 exchange company will provide that information.

12 Q But when a telemarketing call is placed to a  
13 person and there's a conversation that takes place  
14 with the individual who answers the phone and has that  
15 discussion, there's no way, there's no database  
16 available for the IXC to consult to determine if the  
17 person they are talking to is, in fact, the exact name  
18 as listed on the LEC's records, is there?

19 A Probably not. But I believe Sprint provides  
20 directory assistance, and so, you know, I think one  
21 easy thing for you to do in your telemarketing would  
22 be how is the phone listed. You could check your own  
23 record to see if the response was correct, and that  
24 would in theory give you the number and confirm the  
25 number and the name and probably give you the address.

1 Q But that wouldn't necessarily give you the  
2 precise billing name, would it? I think we need an  
3 audible --

4 A No.

5 Q Thank you. Let me just follow up on the LOA  
6 issue that Mr. Nelson was asking you about.

7 It's your interpretation of the proposed  
8 rule that prohibits the combining of the LOA with any  
9 other document, that that would include a negotiable  
10 instrument or a check, that would be precluded?

11 A On the same document, yes.

12 Q And would you be opposed to clarification of  
13 that rule that would specifically state that a  
14 negotiable instrument or a check would be prohibited?

15 A You're asking me if in my opinion it is  
16 prohibited, and you're asking me if the rules should  
17 be changed to say that? I'm sorry, I didn't  
18 understand that.

19 Q No. You told me your interpretation of the  
20 rule. I'm simply asking if you would be opposed  
21 beyond that to the rule being clarified to expressly  
22 exclude it being -- an LOA being combined with a  
23 negotiable instrument such as a check?

24 A No, I'm not opposed to that. An LOA, the  
25 same document, a check, a negotiable instrument.

1           **COMMISSIONER DEASON:** I didn't hear the last  
2 response.

3           **WITNESS TAYLOR:** I'm not opposed to the rule  
4 clarifying that a check should not be combined with a  
5 LOA on the same document.

6           **COMMISSIONER GARCIA:** So explain how -- what  
7 you want it to do. You just said you're not opposed  
8 to a check being combined with a LOA, correct?

9           **WITNESS TAYLOR:** No. I don't want the  
10 checks combined with the LOA. I mean it can't be on  
11 the same document.

12           **Q**       **(By Mr. Boyd)** Mr. Taylor, from a more  
13 global perspective, would you agree that if the PIC  
14 change rules as presently in existence were complied  
15 with by IXC's and now ALEC's, that the incidents of  
16 slamming would be -- would decline?

17           **A**       Well, certainly I think if they were  
18 complied with that we -- certainly when we adopted  
19 these rules we expected a decline. It hasn't  
20 happened. So we think additional controls are  
21 necessary.

22           **MR. BOYD:** That's all I have.

23                           **CROSS EXAMINATION**

24           **BY MR. REHWINKEL:**

25           **Q**       Good afternoon, Mr. Taylor. My name is

1 Charles Rehwinkel with Sprint-Florida.

2 I just have a few questions about some areas  
3 of the rule. And the first one is you've recommended  
4 a rule that would delineate what goes on the bill, and  
5 this is the one we've talked about, the name of the  
6 company and the certificate number.

7 Have you given any consideration to an  
8 appropriate date for this to be effective? Right now  
9 it reads January 1, 1998, which has passed.

10 A Certainly that needs amendment. I think the  
11 industry needs a reasonable amount of time. Probably  
12 in July -- well, let's see, I don't recall when this  
13 goes to agenda, but I'm thinking July 1 or October 1  
14 would probably be reasonable.

15 Q Would you -- Okay. Did you have like a six-  
16 month time frame in mind or something for  
17 implementation?

18 I guess when this was initially proposed or  
19 developed by the Staff that was some time in the  
20 summer of '97 maybe?

21 A Yes. I think six months is probably --  
22 maybe we could just leave it at that; six months after  
23 adoption.

24 Q In another section of the rule deals with  
25 the local exchange company's obligation for making,



1 you call them, I think, a change requests; that's what  
2 we refer to as a PIC change?

3 A Uh-huh.

4 Q Is it your understanding of the rule that it  
5 does not require the local exchange company to  
6 actually inspect whatever authorization that the  
7 prospective provider has acquired, but rather to rely  
8 on a representation or a certification by that  
9 provider before making the change?

10 A Yes.

11 Q Have you given any consideration to --  
12 strike that.

13 There's a section in the rules, and it's on  
14 the version that was passed out today, Page 27, or  
15 on -- which is (5) of .118. It reads "A prospective  
16 provider must have received the signed LOA before  
17 initiating the change." Is your intent there that the  
18 prospective provider must have, if required, a signed  
19 LOA before submitting a change request?

20 A Yes. What we're trying to get at there is  
21 that many times marketing agents are employed and  
22 we're trying to make sure that the long distance  
23 provider actually has the LOA in hand rather than just  
24 accepting the assertion of its marketing agent that  
25 one exists.

1 Q So this -- it would not, this is not  
2 intended to be read in conflict with another provision  
3 of the rule that allows an oral authorization; is that  
4 correct?

5 A Right.

6 Q Let me ask you about -- on Page 28 of that  
7 same version of the rule, (13), this is the section  
8 that requires a provider to provide a copy of the LOA  
9 within 15 days.

10 A Yes.

11 Q Again, this does not replace an obligation  
12 on a local exchange company who has made a switch  
13 based on the certification that is required in another  
14 part of the rule; is that right?

15 A No. This would apply to the provider of the  
16 service that the customer is concerned with.

17 Q Okay. I guess I could ask you if it would  
18 be more appropriate to use the language it relies upon  
19 for submitting the change request there rather than --  
20 the switch is actually the mechanical process that the  
21 local exchange company provides, which is why I asked  
22 you that.

23 A What alternative language are you  
24 suggesting?

25 Q Would it be more appropriate to say instead

1 of the words "for the switch" to say "in submitting  
2 the change request." Do you have any thoughts about  
3 that?

4 A I think that gets to where I need to go, so  
5 I believe that would be acceptable.

6 Q Okay. Let me ask you one last area of  
7 questions.

8 And this would be -- there's a section  
9 that -- and I'm on Page 21 of this same version of the  
10 rule. This is (13) of .110. The requirement here is  
11 that the customer be given notice on the first or  
12 second page of the next -- of his next bill, and  
13 conspicuous -- should that mean bold face type?

14 A Yes, I think I can agree with that.

15 Q That's not my question, though. When his  
16 provider of local, local toll, or toll service has  
17 changed, is it your intent that if that change  
18 occurs -- and I'm assuming you mean when the change  
19 actually physically occurs rather than when a request  
20 is submitted?

21 A Yes.

22 Q If that change occurs the day before the  
23 bills are sent out, would a local exchange carrier be  
24 considered to be in violation of this if they do not  
25 note that change?

1           **A**     I believe the intent here would be --

2                   **COMMISSIONER GARCIA:** Mr. Rehwinkel --  
3 before you answer, I didn't understand the question.  
4 Could you explain it again.

5                   **MR. REHWINKEL:** Sure.

6           **Q**     **(By Mr. Rehwinkel)** My question is if the  
7 change, let's say the customer's bill is going to be  
8 produced on the 10th of the month but the change  
9 physically occurs on the 9th, or maybe even early on  
10 the day of the 10th, his next bill will, perhaps,  
11 depending on how this is set up, not reflect that  
12 change that just occurred. So my question was would  
13 the carrier have some sort -- would they be in  
14 violation if that situation occurred?

15                   **WITNESS TAYLOR:** No, it wouldn't. I think  
16 our intent here is that -- it would be that the next  
17 bill that contains a charge for the provider that is  
18 changed.

19           **Q**     Would it be appropriate to clarify that  
20 language?

21           **A**     Well, to the extent it's not clear, I would  
22 agree with that.

23                   **MR. REHWINKEL:** That's all I have.  
24  
25

**CROSS EXAMINATION**

1

2 **BY MS. RULE:**

3 Q Hello, Mr. Taylor. Marsha Rule for AT&amp;T.

4 A Hello.

5 Q Okay. If these rules go into effect,  
6 whatever way they go into effect, I want to be able to  
7 tell my client what they are going to have to do in  
8 order to comply with them.

9 And to that end, all rules, including these,  
10 ought to be clear and ought to set forth the  
11 obligations of the providers, right?

12 A Yes.

13 Q Okay. Let's assume that a long distance  
14 company contacts a prospective customer -- let's  
15 assume it's a telemarketing contact and the customer  
16 is interested in service. And as I understand your  
17 testimony and the discussion you have had with some of  
18 the others up here, you believe that the long distance  
19 provider has an obligation to make sure that the  
20 person on the phone is the one authorized to switch  
21 service, right?

22 A Yes.

23 Q Okay. How do I do that?

24 A Well, through a series of questions. I mean  
25 you've got to ask. You can't just accept that the

1 person answering the phone has that ability.

2 Q Okay. Fair enough. So I might say  
3 something like, "Are you authorized to switch service  
4 or switch long distance providers?" Right?

5 A Yes.

6 Q How do I find out who's authorized and who's  
7 not? Suppose I call your number and I talk to you  
8 instead of your wife and you say, "Yes, I am." How do  
9 I find out what the real truth of the matter is?

10 A If I come jump on AT&T for doing that wrong  
11 because I got a complaint, then you respond, "Well, we  
12 thought we were talking to the right person. This is  
13 a, you know, a spousal dispute or what have you." And  
14 I don't think that AT&T has been harassed over this  
15 issue. I don't think they will be harassed over this  
16 issue.

17 Q But that's after the fact. And I'm trying  
18 to advise my client on a prospective basis how to set  
19 up their business practices to make sure that they  
20 comply with the rule. And I tell them you're supposed  
21 to find out who is authorized. How can they do that  
22 other than asking?

23 A Ask and document that you did ask and that  
24 you were told this information.

25 Q Okay. What if it turns out that that person

1 is not, indeed, the real person on the bill, the  
2 person who would truly be authorized? Would we be  
3 liable for a violation of the rule?

4 A Probably not because. If I -- you would  
5 come to me and say, "Well, we followed the rule, and,  
6 therefore, we didn't slam anybody."

7 Q Okay. But "probably not" isn't going to  
8 keep my clients happy when they are looking to me for  
9 advise on how to comply with the rule.

10 If, indeed, you ask the question, "Are you  
11 authorized?" And you do receive the answer, "Yes, I  
12 am," and that's going to be a valid switch, shouldn't  
13 that be in the rule?

14 A Well, I think the rule is clear that the  
15 customer is who needs to provide the authorization and  
16 you need to be sure that you get to the customer.

17 Q How do I do that?

18 A And I'm not prepared to tell you how to do  
19 that. It seems a fair requirement, though.

20 Q But I don't have access to the LEC database,  
21 and, indeed, they're not allowed to tell me exactly  
22 who their customers are, confirm this sort of  
23 information for me, so what other way do I have other  
24 than asking to find out who is authorized and who is  
25 not? Keep in mind, this is a company that wants to

1 comply with the rules and I'm trying to tell them the  
2 right thing to do.

3       A     Sure. Okay. You have a number. You ask  
4 whose name is this number listed in? Depending on  
5 what you get, you're certainly in a position to make  
6 judgments about whether Sara, the receptionist, can  
7 make the change, or if it's for a major corporation  
8 you need to have an officer of the corporation.

9             It's been my experience that you want less  
10 rules rather than more. But if you want me to  
11 specifically say, to draw you a map and add to this  
12 rule the steps that you need to go through, I guess we  
13 could do that.

14       Q     Well, I think the concern is if the rules  
15 don't adequately tell me when I'm violating them and  
16 when I'm not, then they need to be changed to make  
17 that clear. And what I'm asking is do you clarify the  
18 rule to say as long as you ask and the customer  
19 assures you that they are authorized you're okay, or  
20 do you change it in the direction of having to do some  
21 sort of independent verification?

22       A     I think you do what you -- what the current  
23 rule requires.

24       Q     What's that?

25       A     Well, that's verify that you have the



1 customer's authorization.

2 Q Where does it say that in the rule? (Pause)

3 A In the existing rule you're asking?

4 Q Yes, sir.

5 A 25-4.118. "The primary interexchange  
6 company of a customer shall not be changed without the  
7 customer's authorization." That's what the current  
8 rule reads.

9 Q Okay. So do you mean customer of record of  
10 the LEC?

11 A Well, that's -- yes, I think that's safe.  
12 If you have the customer of record of the LEC, I think  
13 you've satisfied the requirement.

14 Q Okay. How do I find out whether the person  
15 I'm talking to is the customer of record of the LEC?

16 A One way would be to ask them. The other  
17 would be to -- you can make some judgments. I mean  
18 obviously, you know, you're going to have to make some  
19 judgments based on available information. And  
20 certainly I don't think AT&T wants to --you know,  
21 correct me if I'm wrong -- I don't think you want to  
22 change a corporation's carrier without getting  
23 specific authorization.

24 Q We want to make sure we have specific  
25 authorization in all cases.

1           A     From the customer.

2           Q     And what I'm asking you is how do I advise  
3 my client what to do? In your opinion, does this rule  
4 require the soliciting company to independently verify  
5 that the person they are talking to is, indeed, the  
6 customer of record?

7           A     This rule does not spell that out, no, it  
8 doesn't.

9           Q     Okay. So we still have --

10           **COMMISSIONER GARCIA:** Do you think that  
11 would be helpful, Mr. Taylor, if it was spelled out?

12           **WITNESS TAYLOR:** Yes.

13           **COMMISSIONER GARCIA:** Do you think it would  
14 be more onerous on the companies, though?

15           **WITNESS TAYLOR:** Well, I'm sure they would  
16 say it is.

17           **COMMISSIONER GARCIA:** But I think -- because  
18 I've come home to AT&T on certain occasions when  
19 they've sent me a check, or when they've offered me  
20 inexpensive service. And they do have a independent  
21 caller verification, which I think is very efficient  
22 and I think they record you with the independent  
23 caller verification. Do you think we should include  
24 something like that in our rule? Wouldn't it be an  
25 even greater safeguard?

1           **MS. RULE:** I'm not sure who the question is  
2 to.

3           **WITNESS TAYLOR:** I'm just trying to think if  
4 AT&T really sends their check to Sara, the  
5 receptionist. And, you know, I think they make some  
6 decisions up front. I think they have been making  
7 them and I think they can make them in the future.  
8 I'm not sure that the rule needs to be changed to  
9 accommodate this concern.

10           **Q**     **(By Ms. Rule)** Okay. But I'm still not  
11 clear what to advise my client.

12                   Is it your testimony today that if in this  
13 independent verification, or whatever other contact  
14 there is, the person on the phone assures the  
15 soliciting company that they are the correct person to  
16 talk to to change the long distance provider, that  
17 that's okay, and you can't -- that's not a violation  
18 of the rule if they happen to be turning out telling  
19 you something that's not true?

20           **A**     I would say that's not a violation of the  
21 rule. On the other hand, if I had complaints one  
22 after the other that this was happening and -- you  
23 know, I think I would have to question whether the  
24 company is sincerely making the effort that it's  
25 suggesting it's made.

1 Q Okay. But that's a different issue, isn't  
2 it?

3 A Yeah.

4 Q Okay. And you also testified, I think,  
5 about -- although you weren't ready to commit to what  
6 might be a percentage of an acceptable level of  
7 slamming, there might be some number out there that  
8 could be an acceptable level; is that correct? Did I  
9 have that right?

10 A Right.

11 Q Okay. And again I understand you're not  
12 ready to commit to it, but what sort of factors would  
13 you consider in trying to determine if a company had  
14 an acceptable or unacceptable level of complaints?

15 A Well, the nature of the complaints and the  
16 volume, obviously.

17 Q Okay. So if somebody was, for example,  
18 misrepresenting the company's identity, that might  
19 justify a smaller number as being acceptable?

20 A Yeah.

21 Q Okay. Would you take into account the  
22 number of PIC changes processed by that company?

23 A To a degree. Obviously, you know, I think  
24 if you make a million checks or a million changes,  
25 that doesn't authorize you to arbitrarily change a

1 thousand without authorization.

2 Q Oh, certainly not. But if on the other  
3 hand, you've got a company processing several million  
4 PIC changes and they have 100 complaints versus a  
5 company that's processing 50,000 PIC changes during  
6 that same time and they have a hundred complaints,  
7 it's possible that one company might, under some  
8 circumstances, be at the acceptable level and the  
9 other company would not?

10 A It's possible, yes.

11 Q Now, is that policy in a rule anywhere?

12 A No.

13 Q Okay. And earlier -- and this is the last  
14 one -- you said you knew of at least one complaint  
15 regarding a check type of letter of authorization,  
16 correct?

17 A Yeah. But it's been a while since I've seen  
18 it.

19 Q So it's not a hot issue at Consumer Affairs,  
20 is it?

21 A I don't believe so, no.

22 Q Okay. And do you know how many of these  
23 check LOAs, which everybody here seems to have  
24 received at one time, how many were successfully  
25 cashed by consumers without complaint or confusion in

1 Florida?

2 A I have no idea.

3 Q And do you believe that those consumers who  
4 were happy to receive money from AT&T for switching  
5 carriers should no longer be able to receive those  
6 checks because you had one complaint?

7 A No. But AT&T can certainly continue to send  
8 them the checks. I mean, the envelope can manage to  
9 hold two documents. So I think you could send them  
10 your promotional letter, and I think you could send  
11 them a separate check in the same envelope and it not  
12 be a part of the LOA. So I don't think AT&T would be  
13 precluded in any way from enriching the citizens of  
14 the state.

15 Q Well, I think I've heard this argument  
16 before. It's just as interesting to me as it was at  
17 the time I first heard it. But do you believe it  
18 would be a prudent business decision for any company  
19 to blindly send out checks and hope that perhaps,  
20 after cashing it and thinking it over, maybe that  
21 customer would switch carriers?

22 A Well, I've always wondered about AT&T's  
23 decision to cover the money -- or the state with  
24 green, but I think that clearly you have to make the  
25 call before you cash your check, in theory, and you

1 have your verification when that occurs. So I guess I  
2 don't see where the harm to AT&T lies in that  
3 scenario.

4 Q I understand that you don't see the harm to  
5 AT&T, Mr. Taylor. But I want to go back to my earlier  
6 question.

7 You've got a lot of people out there who  
8 cashed the checks; not misleading. No confusion.  
9 You've got one complaint. Are you saying because you  
10 have one complaint none of those other people should  
11 get a check again? Yes or no.

12 A No, I'm not saying they should never get a  
13 check. You can send them as many checks as you want  
14 just don't put it in the LOA.

15 Q So you're saying they should never get a  
16 check LOA again, correct?

17 A Right.

18 MS. RULE: Thank you.

19 COMMISSIONER GARCIA: I would assume,  
20 Mr. Taylor, you meant by that they could make the call  
21 that if Ms. Rule part-time worked as a seller of AT&T  
22 phone services, she could call your home and say  
23 "Mr. Taylor, are you the authorized carrier -- are you  
24 the authorized person to change?" And in this case  
25 you were. You said "yes." And then she offered you

1 \$100 to switch, you could say, "I'll take the \$100."  
2 You could agree to switch and then they could send you  
3 a check. That would be fine.

4 WITNESS TAYLOR: That's fine with me.

5 MR. WIGGINS: I have one question I had  
6 hoped to avoid.

7 CROSS EXAMINATION

8 BY MR. WIGGINS:

9 Q Good afternoon.

10 A Hi.

11 Q Mr. Taylor, are you familiar with the part  
12 of the proposed rule that says the LOA shall not be  
13 combined with inducements of any kind on the same  
14 document?

15 A Yes.

16 MR. WIGGINS: That's it. (Laughter) No.

17 Q Would a document that had the LOA so it  
18 could be torn away and submitted as a separate  
19 document, would that form satisfy this rule?

20 A Where in the rule? Let me read that.

21 Q Page 35 at the pre-Notice of Rulemaking.

22 MS. CALDWELL: Page 26.

23 MR. WIGGINS: Candidly, I had read it to  
24 allow that, but then it occurred to me -- I think the  
25 FCC rules allowed that but it occurred to me that it



1 was worth clarifying here.

2           **WITNESS TAYLOR:** I think you've pointed up  
3 an issue that probably could be better addressed. And  
4 realistically we find today that there are many LOAs  
5 which are no bigger than -- they are very small, but  
6 they are adjacent to a box this big (indicating) that  
7 says "Win a Carribean vacation." I think really, even  
8 though they are tear-off LOAs, that really we should  
9 consider the document as a whole. And that would be  
10 the box and the little piece of paper that in very  
11 fine print says your long distance company might be  
12 changed if you sign up for this vacation.

13           So I would -- I think we should focus on the  
14 document as a whole.

15           **Q** To ensure it's not misleading?

16           **A** Right.

17           **MR. WIGGINS:** Thank you.

18           **CHAIRMAN JOHNSON:** Any questions,  
19 Commissioners?

20           **COMMISSIONER JACOBS:** I have a couple.

21           Mr. Taylor, on Page 8 of your testimony, I  
22 believe it's your direct testimony, you speak about a  
23 FCC order which requires the implementation of the  
24 carrier identification code for resellers.

25           **WITNESS TAYLOR:** Yes.

1           **COMMISSIONER JACOBS:** Are you aware of what  
2 the rationale for that was?

3           **WITNESS TAYLOR:** I think the FCC's desire  
4 was to assist consumers in determining who the  
5 provider of their service was.

6           **COMMISSIONER JACOBS:** Was it premised by any  
7 particular conduct or trend in the market?

8           **WITNESS TAYLOR:** I think there is an example  
9 in one of my exhibits. Let me see if I can find it.  
10 I believe it's Exhibit 3 there's a Sprint letter. I  
11 think the Sprint letter explains that its carrier  
12 identification code was on a subscriber's bill even  
13 though Sprint, itself, was not the provider of the  
14 service. And so I believe the FCC wanted a system  
15 implemented that would allow the actual provider of  
16 the service, whether they actually interconnected with  
17 the local network at all or not, to be identified as  
18 the provider in the local telephone company system.  
19 In this case the subscriber's local bill reflected  
20 Sprint as its provider when Sprint was not the  
21 provider.

22           **COMMISSIONER JACOBS:** So what value would  
23 that have to a consumer?

24           **WITNESS TAYLOR:** It lessens confusion. If  
25 the consumer agreed to be the customer of XYZ carrier,

1 but looked on their bill and saw their primary carrier  
2 was Sprint instead of XYZ, they would be confused.

3           **COMMISSIONER JACOBS:** Now, in the --  
4 actually this is the existing rule -- well, it would  
5 be the existing rule. I'm looking at the proposed  
6 rule, taking away the modifications. I'm reading it  
7 as it exists today.

8           Presently it is(5) of, I believe, .110 --  
9 let me make sure. I believe it's subsection.  
10 25-4.118 existing (5), it says "Charges for  
11 unauthorized PIC changes and higher usage rates, if  
12 any, over the rates of the preferred company shall be  
13 credited to the customer by the IXC responsible for  
14 the error within 45 days notification." Is that your  
15 reading of it? You probably have the proposed rule  
16 which is marked up like mine is.

17           **WITNESS TAYLOR:** Yeah. Yes, that's the  
18 current rule.

19           **COMMISSIONER JACOBS:** Okay. I am a customer  
20 who has been slammed -- previously I was a customer of  
21 one of the major IXCs, and now a reseller who is  
22 purchasing from that same IXC. I got slammed by that  
23 reseller. And I determined that I want to get my  
24 money back under this provision. How am I going to  
25 determine how much I should get back?

1           **WITNESS TAYLOR:** Well, under today's rule  
2 the consumer is -- doesn't suffer a loss except for  
3 their time and expense to accomplish the change back.  
4 The slamming carrier would absorb the PIC change  
5 charge, both to pick the service to the slamming  
6 carrier service and to change it back.

7           **COMMISSIONER JACOBS:** So that's what that  
8 provision requires? It's my understanding that it  
9 will allow that customer to seek some difference here,  
10 some recompense.

11           **WITNESS TAYLOR:** If they are calls which are  
12 at a rate above what the subscriber would have paid,  
13 then he's entitled to an adjustment for those charges.

14           **COMMISSIONER JACOBS:** Right. How would I  
15 determine, as a customer, what I'm due back?

16           **WITNESS TAYLOR:** Well, I think most  
17 customers, the ones I've seen who I have written  
18 complaints from, just simply take their previous bill  
19 and say, well, here's a call for ten minutes -- they  
20 commonly call the same places and so they can look at  
21 the per-minute charge on a previous bill and compare  
22 it to the next bill and they know about what the range  
23 is. The carrier, though, can certainly be -- can make  
24 a determination of the difference in the rates for  
25 adjustments. I mean, I think that's common.

1           **COMMISSIONER JACOBS:** It's my understanding  
2 before that the reseller may not have any tariffs on  
3 file; is that correct?

4           **WITNESS TAYLOR:** Well, if the reseller is  
5 not certificated, that's a problem.

6           **COMMISSIONER JACOBS:** Okay. Let's go with  
7 that. Reseller who did the slamming is not  
8 certificated. How do we find out?

9           **WITNESS TAYLOR:** Well, first we have to find  
10 the carrier and see what rates they are charging,  
11 and --

12           **COMMISSIONER JACOBS:** How do we do that?

13           **WITNESS TAYLOR:** Well, we've got to go look  
14 for them, I guess. Based on if I get a consumer  
15 calling here, and typically we ask for a copy of the  
16 bill, and based on the bill I can usually identify --  
17 well, I know it either came from a local telephone  
18 company, came from AT&T, MCI or Sprint, and so I would  
19 have to call one of those entities and say, you know,  
20 "On whose behalf are you billing and give me a name  
21 and address." And then I think contact the  
22 uncertificated provider through those means.

23           **COMMISSIONER JACOBS:** Okay. So if that  
24 would be the way you go about that, then the extension  
25 of that is, I guess, is a rule of your -- your request

1 to require those companies to give us back -- give you  
2 back, rather, a certificate.

3           **WITNESS TAYLOR:** Yes.

4           **COMMISSIONER JACOBS:** Okay. On the -- now  
5 we just go back to the proposed rule for a moment,  
6 that same 25-4.118 and the new (4). Here there's a  
7 definition of misleading or deceptive. Let me give  
8 you a scenario.

9           The reseller has adequately informed the  
10 customer of the services and the terms of that  
11 agreement. They've done a proper LOA but the  
12 consumer's consent was obtained on the premise that  
13 they would receive a 20% discount. They subsequently  
14 discover, after they've changed, that they're not  
15 getting 20%, they are getting 8, 9, 10% discount and  
16 they become dissatisfied.

17           In your interpretation, that would not be a  
18 slam; is that correct?

19           **WITNESS TAYLOR:** I think that's right. But  
20 I do think that we have other rules which would  
21 address a remedy for that scenario.

22           **COMMISSIONER JACOBS:** So they would have a  
23 remedy in that instance?

24           **WITNESS TAYLOR:** Yes.

25           **COMMISSIONER JACOBS:** Okay.

1           **CHAIRMAN JOHNSON:** Any other questions,  
2 Commissioners? Redirect.

3           **COMMISSIONER GARCIA:** I just want to walk  
4 through the rule the way Alan understands it, and  
5 then, Alan, you tell me where I'm wrong, or maybe you  
6 can tell me as I ask you the questions how we get  
7 there.

8           Let's say I have service with AT&T and I get  
9 a call from MCI to switch my service, and tell me  
10 where the rule puts me first there. What does -- just  
11 so I understand it, what does MCI need to have from me  
12 to switch? Is the phone call sufficient? Or does it  
13 have to have independent verification?

14           **THE WITNESS:** No. If it's a telemarketing  
15 call, there would need to be third-party verification,  
16 or you could return a postcard which -- a signed  
17 postcard accepting the service offer.

18           **COMMISSIONER JACOBS:** Same scenario. This  
19 time I don't agree. I don't agree to a change and I  
20 get my bill. I notice on my bill that now I have  
21 another company on the bill -- let's say I have MCI  
22 again. I didn't agree. What am I entitled to as a  
23 consumer and what can MCI expect?

24           **WITNESS TAYLOR:** Well, we've certainly  
25 crafted the rule to encourage MCI to make doublely

1 sure that it had the correct authorization. And we've  
2 also crafted the rule so you, as a subscriber, will  
3 notice on your bill that your carrier has been  
4 changed. So as soon as you notice that, you should be  
5 able to call MCI, in your example, and dispute the  
6 fact that a change was authorized.

7 In theory, under the rule -- hopefully the  
8 rule wouldn't come into play because MCI, through its  
9 satisfaction guarantee, would simply change you back  
10 and take care of any charges. If there was a dispute  
11 and did come to the Commission with your complaint, we  
12 would log it in, make sure that the PIC change charges  
13 which were charged to you were credited, and that you  
14 were put back to your preferred carrier. And if you  
15 had made any calls before you noticed the change, then  
16 you would get that number of calls without charge.

17 COMMISSIONER GARCIA: Okay. Let's go on  
18 then. I get my bill. Same scenario. Now it's not  
19 MCI. Now it's Joe Garcia Phone Company. There is no  
20 certificate in the state of Florida for this company  
21 and I'm being billed by GTE. It's on my GTE local  
22 service bill. Joe Garcia Phone Company is billing me  
23 for \$50 of long distance calls. What remedies do I  
24 have if that company is not certificated within the  
25 state of Florida?



1           **WITNESS TAYLOR:** Well, I think you have the  
2 same remedies, it's just a little bit more difficult  
3 to get the corrective action because your complaint  
4 alerts us to the fact that someone is operating  
5 without a certificate and we have to pursue that as  
6 well.

7           **COMMISSIONER GARCIA:** Let me ask you, what  
8 remedies do we have against GTE as a Commission?

9           **WITNESS TAYLOR:** Well, if the rule requires  
10 that the certificate number be on the bill and they  
11 are billing without the certificate number on it,  
12 then, obviously, they are violating a rule and we do  
13 have recourse against GTE in that case.

14           **COMMISSIONER JACOBS:** All right. Let's  
15 follow what Ms. Caswell had spoken about, not  
16 requiring the certificate number there. Okay. So the  
17 certificate number -- let's say when we final this out  
18 that we remove that requirement. So again Joe Garcia,  
19 Phone Company appears there. They are not  
20 certificated. So when I would call in to ask you,  
21 they wouldn't be certificated. I wouldn't be required  
22 to pay for those long distance calls, correct?

23           **WITNESS TAYLOR:** Right.

24           **COMMISSIONER JACOBS:** And we would, as a  
25 Commission, have the right to go after GTE for billing

1 for an uncertificated carrier, correct?

2           **WITNESS TAYLOR:** No. I don't -- I don't  
3 think that's the case.

4           **COMMISSIONER GARCIA:** GTE can bill for an  
5 uncertificated carrier?

6           **WITNESS TAYLOR:** Yes. I mean, today --  
7 well, particularly in the long distance example 4701  
8 requires that they state in their tariff that anyone  
9 buying out of that tariff must have a certificate but  
10 there's no enforcement of that -- it doesn't --

11           **COMMISSIONER GARCIA:** So the only  
12 enforcement provision would be once we got the  
13 complaint from me about this phone company, then we  
14 would have to issue an order to the phone companies in  
15 Florida not to bill for this company, correct?

16           **WITNESS TAYLOR:** Yes.

17           **COMMISSIONER GARCIA:** So Alan, then tell  
18 me -- because then I somehow see Ms. Caswell's  
19 point -- what does the certificate number do for us?  
20 If they are billing for a company that doesn't have a  
21 certificate number and they are aware that they don't  
22 have a certificate number, what difference does that  
23 make?

24           **WITNESS TAYLOR:** Well, because by requiring  
25 by rule that they have the certificate number,

1 Ms. Caswell is not going to bill for that company  
2 without it. And so --

3 COMMISSIONER GARCIA: If she did, you just  
4 said that there's no recourse.

5 WITNESS TAYLOR: No. If she billed without  
6 the certificate number and that was a rule  
7 requirement, then I have a rule violation on GTE's  
8 part.

9 COMMISSIONER GARCIA: I understand. But  
10 let's -- but that the company be certificated in the  
11 state of Florida you said to me is not a requirement.

12 WITNESS TAYLOR: Yes, it is a requirement  
13 that you -- I guess maybe I should clarify that. It's  
14 not a requirement for GTE to -- I think that some  
15 carriers bill based on interstate charges and out of  
16 interstate tariffs and there's not always -- I don't  
17 think every bill in Florida is on behalf of a  
18 certificated provider today.

19 COMMISSIONER GARCIA: Okay.

20 WITNESS TAYLOR: But, yes, if you provide  
21 intrastate service you must have a certificate.

22 COMMISSIONER GARCIA: Okay. And that's why  
23 we're requiring it there.

24 WITNESS TAYLOR: Yes.

25 COMMISSIONER GARCIA: Okay. I think that

1 Bwill do it. Thank you.

2 CHAIRMAN JOHNSON: Redirect.

3 MS. CALDWELL: Yes.

4 REDIRECT EXAMINATION

5 BY MS. CALDWELL:

6 Q Mr. Taylor, do you believe that the  
7 customers would be confused if there was a certificate  
8 on the bill?

9 A A certificate number?

10 Q The certificate number on the bill?

11 A No, I don't believe so.

12 Q Do you think customers are aware that  
13 companies do get certifications in other companies and  
14 people get certifications in other areas and are  
15 required to provide that certification in advertising  
16 or other areas? And that customers are aware of that?

17 A Yes. Obviously, I think there are some  
18 subscribers that would be well aware of that; others  
19 that might not.

20 Tape 6

21 Q Require that that information be provided on  
22 a certificate, that through -- over time that the  
23 customers, if they were confused, would learn that  
24 that is the company's certificate number and they  
25 would not be confused?

1           A     Yes, that they'd provide the certificate  
2 number on the bill. Yes. I think over time -- I  
3 don't think consumers would be concerned -- or would  
4 be confused at all with a certificate number, and I  
5 don't think they would be confused ever.

6           Q     Isn't it the purpose -- another purpose of  
7 having the certificate number appear on the bill is to  
8 ensure that no company bills for an uncertificated  
9 entity and to assist in the complaint resolution,  
10 because many companies use abbreviated names which can  
11 be confusing?

12          A     Yes.

13          Q     Do you believe that through customer  
14 education that having the certificate number on the  
15 bill will prove beneficial to the customer in the  
16 future?

17          A     Yes. The Commission certainly is out front  
18 on the issue of assisting consumers with problems with  
19 carrier selection. And I think that having the  
20 certificate number is easily, you know, promoted by  
21 the Commission as a way of helping consumers, or  
22 providing consumers more information with which they  
23 can manage their telephone accounts.

24          Q     Is it not true that many companies' names  
25 are abbreviated on the bills and can be misunderstood

1 to be another company with a similar name that has the  
2 same initials when abbreviated?

3 A Yes. There is room for confusion there.

4 Q And then wouldn't having the certificate  
5 number on the bill alleviate that problem of  
6 identifying the company?

7 A Yes.

8 Q Would having the certificate number on the  
9 bill ensure that the investigation of a complaint is  
10 directed towards the correct company?

11 A Certainly it would speed the -- any  
12 enforcement process or any -- or returning the  
13 consumer to their preferred carrier, yes.

14 Q If a company is billing on behalf of another  
15 company, does it not need to know the name of the  
16 company. And, if so, would it not also be as easy to  
17 obtain the certificate number at that time?

18 MR. NELSON: Commissioner Johnson, I hate to  
19 do this. I'm going to object. I know this is a  
20 rulemaking proceeding, but we've had a whole string of  
21 pretty leading questions. It sounds more like counsel  
22 is testifying than the witness, and I'm not sure this  
23 is real proper redirect.

24 CHAIRMAN JOHNSON: Counsel?

25 MS. CALDWELL: I'm just trying to clarify

1 some answers that the witness has made.

2           **COMMISSIONER CLARK:** As far as I'm  
3 concerned, we can put Ms. Caldwell under oath and let  
4 her testify. I mean, it is rulemaking.

5           **MS. RULE:** Well, I was going to suggest that  
6 we just cut to the chase and have Ms. Caldwell make  
7 the comments. I think it is acceptable at a rule  
8 hearing, and if she has comments get into the record,  
9 I'd much prefer she just put them into the record that  
10 way.

11           **CHAIRMAN JOHNSON:** Ms. Caldwell?

12           **MS. CALDWELL:** I can make comments at a  
13 later time.

14           **CHAIRMAN JOHNSON:** Do you want to ask the --

15           **MS. CALDWELL:** I mean, I'd like to go ahead  
16 and ask him because --

17           **CHAIRMAN JOHNSON:** I'm going to allow you to  
18 ask --

19           **COMMISSIONER CLARK:** Let me apologize. My  
20 view was that-- you know, the Staff comes up with it,  
21 and Alan is the one who is sort of our lead person on  
22 this, and I just -- we're wasting time.

23           **CHAIRMAN JOHNSON:** You can ask the  
24 questions.

25           **MS. CALDWELL:** And I was done. (Laughter)

1           **CHAIRMAN JOHNSON:** Oh. Did he answer the  
2 last question?

3           **MS. CALDWELL:** I think he did.

4           **WITNESS TAYLOR:** Yes. (Laughter)

5           **CHAIRMAN JOHNSON:** Okay.

6           **MS. CALDWELL:** I would like to ask one more  
7 question.

8           **Q**       **(By Ms. Caldwell)** Have you reviewed any  
9 LOAs for promoting frequent flier points, or have you  
10 reviewed any LOAs where other types of promotions  
11 which are not sweepstakes related that were not  
12 clear -- that the purpose of the LOA was to switch the  
13 consumer's long distance?

14          **A**       Well, I do have to admit, I've gotten  
15 solicited by MCI and AT&T -- well, let me correct  
16 that. My wife has gotten solicited by AT&T and I was  
17 solicited by MCI. I guess if I had responded to MCI,  
18 I would have been in trouble with my wife, I suppose.

19                   So I've seen both of those types of  
20 documents, and I've certainly seen the other  
21 documents, the sweepstakes entries and others, as well  
22 as the boxes and so forth.

23          **Q**       In your opinion, could you tell us whether  
24 you believe they were misleading in any way?

25          **A**       Well, fundamentally I suppose the AT&T



1 check, for instance, while personally it might not be  
2 misleading to me, but had it come, for instance, to  
3 the Florida Public Service Commission, the \$100 -- and  
4 the procedure here for any money that arrives by the  
5 mail is to immediately endorse it and deposit it in  
6 the bank. And if that resulted in the Commission's  
7 primary interexchange carrier being changed, I would  
8 say that it was without authorization, because nobody  
9 saw the check. So I can see where that would be  
10 misleading.

11           With respect to MCI's frequent flier, it's,  
12 I guess, perhaps less misleading, or there's less  
13 chance of that happening, I suppose. But with respect  
14 to the sweepstakes and the raffles and so on, it's  
15 easy for me to see that consumers don't fully  
16 understand, and that citizens would be incited, if  
17 you will, to even make up numbers in order to hope to  
18 win something, even if they are not responsible for  
19 the telephone. So I think that is misleading.

20           MS. CALDWELL: Thank you. That concludes my  
21 direct, and at this time I'd like to admit into  
22 evidence Mr. Taylor's testimony, with the exception of  
23 Page 8, beginning on Line 10 through Page 16, Line 5.  
24 And included we'd like to also admit into the record  
25 the exhibits, which would be Composite Exhibit No. 2

1 with the exception of Exhibits 7 -- I'm sorry -- 4, 5,  
2 6, 7, 8, 9 and 12.

3           **CHAIRMAN JOHNSON:** We will insert into the  
4 record the testimony as described and --

5           **MR. NELSON:** Chairman Johnson, can you give  
6 me just a minute on the exhibits? I thought there  
7 were two other exhibits referenced in that piece of  
8 the testimony. I thought Exhibits 10 and 11 were also  
9 referenced in the piece of the testimony that's been  
10 withdrawn. My notes say they're at Page 12 of that,  
11 at Line 15 and at Line 24.

12           **MS. CALDWELL:** We found that as well. So it  
13 will be Exhibit Nos. 4 through 12.

14           **CHAIRMAN JOHNSON:** 4 through 12 will be  
15 omitted?

16           **MS. CALDWELL:** Will be omitted.

17           **CHAIRMAN JOHNSON:** We'll show then those  
18 documents the composite exhibit, but omitting 4, 5, 6,  
19 7, 8, 9, admitted without objection.

20           (Composite Exhibit 2, consisting of 1, 2, 3,  
21 13 and 14, received in evidence.)

22           **CHAIRMAN JOHNSON:** Mr. Taylor, you're  
23 excused. Thank you.

24           (Witness Taylor excused.)

25           **MR. MCGLOTHLIN:** Chairman Johnson, could I

1 take up a housekeeping matter?

2 **CHAIRMAN JOHNSON:** Uh-huh.

3 **MR. McGLOTHLIN:** It may be a little bit  
4 early to worry about whether there's going to be a  
5 sufficient time to take everybody, but I want to make  
6 you aware of one situation.

7 Scott Nicholls, who is LCI's senior manager  
8 for state affairs, submitted written comments. He  
9 does not have prefiled testimony. He would like to  
10 offer some brief oral comments during the day. If we  
11 run into the need to carry over, Mr. Nicholls has been  
12 told to stand close by for jury duty and may or may  
13 not be able to be available if the hearing takes up  
14 later.

15 So if the other parties and the  
16 Commissioners will consent, I would like to find some  
17 opportunity for some brief oral comments before we  
18 conclude today from Mr. Nicholls.

19 **CHAIRMAN JOHNSON:** Okay. Let me just go  
20 ahead and poll everyone to determine how much time  
21 we'll need today for all of our witnesses, to get a  
22 better feel.

23 We have Mr. Poucher; I think he's up next.  
24 How much questioning?

25 **MS. WHITE:** Actually, maybe have five

1 minutes, if that.

2 MS. CASWELL: I might have about five  
3 minutes.

4 MR. WIGGINS: Minimal.

5 MS. WARD: Probably about five minutes,  
6 depending on what other -- previous questions.

7 CHAIRMAN JOHNSON: Okay. Staff, will you  
8 have any questions for Mr. Poucher?

9 MS. CALDWELL: We won't have any for  
10 Mr. Poucher, no.

11 CHAIRMAN JOHNSON: Okay. Say, about 30  
12 minutes' worth. Mr. Watts?

13 MR. BECK: I'll have five to ten.

14 MS. WHITE: I have none.

15 MS. CASWELL: None.

16 MR. WIGGINS: One or two.

17 CHAIRMAN JOHNSON: Staff?

18 MS. CALDWELL: We have maybe five to ten.

19 CHAIRMAN JOHNSON: Mr. Hendrix?

20 MR. BECK: Five at most.

21 CHAIRMAN JOHNSON: No one else would have  
22 any?

23 MS. WARD: About five minutes, Madam  
24 Chairman.

25 CHAIRMAN JOHNSON: Staff?

1 MS. CALDWELL: About five.

2 CHAIRMAN JOHNSON: So I'm assuming the rest  
3 are around 30 minutes on and off? Okay.

4 Are there other individuals that are going  
5 to provide -- that aren't on the list that are going  
6 to provide comments?

7 MS. RULE: Chairman, I don't know if there  
8 are any other parties who didn't otherwise file  
9 testimony, but as we discussed at the prehearing, my  
10 witness will be presenting comments in addition to his  
11 testimony.

12 CHAIRMAN JOHNSON: Okay. I think we'll  
13 begin, then, with Mr. Poucher.

14 - - - - -

15 EARL POUCHER

16 was called as a witness on behalf of the Office of  
17 Public Counsel and, having been duly sworn, testified  
18 as follows:

19 DIRECT EXAMINATION

20 BY MR. BECK:

21 Q Mr. Poucher, would you please state your  
22 name.

23 A My name is Earl Poucher.

24 Q By whom are you employed?

25 A I'm a legislative analyst with the Office of

1 Public Counsel, 111 West Madison, Tallahassee  
2 32399-1400.

3 Q Did you file 15 pages of testimony on or  
4 about November 24th, 1997?

5 A Yes, I did.

6 Q Do you have any changes or corrections to  
7 that testimony?

8 A Yes, I do; not to the testimony, but to the  
9 attachment, Exhibit 1.

10 Q Can you hold off just a minute until we get  
11 to the exhibit. The testimony, do you have any  
12 changes or corrections?

13 A No, I do not.

14 Q Now, you also have an exhibit you filed on  
15 November 24th, 1997; is that correct?

16 A That's correct.

17 Q And that is REP-1 through REP-3; is that  
18 correct?

19 A That's correct.

20 Q Do you have any changes to that exhibit?

21 A Yes, I do. The exhibit contains 27  
22 duplicate letters from customers that were received by  
23 the Attorney General and the Office of Public Counsel.  
24 Those duplicates are identified in the handout that we  
25 just gave you along with the page numbers on that

1 exhibit and the customer names that are associated  
2 with them.

3 In addition to that, there are two errors.  
4 Page No. 277 and Page No. 364 should be deleted.

5 Q And is that all of the changes to the  
6 exhibit filed in November?

7 A That's correct.

8 Q Did you also file an addendum to that  
9 exhibit one week ago?

10 A Yes, I did.

11 Q Do you have any changes or corrections to  
12 make to that exhibit?

13 A No, I do not.

14 MR. BECK: Madam Chairman, I'd ask that  
15 Mr. Poucher's exhibits, which is the original one in  
16 November, and then there's two books for the one filed  
17 a week ago, that be marked as Composite Exhibit 3 for  
18 identification.

19 CHAIRMAN JOHNSON: Be marked as Composite  
20 Exhibit 3.

21 (Composite Exhibit 3 marked for  
22 identification.)

23 Q (By Mr. Beck) Mr. Poucher, with respect to  
24 your testimony if I asked you those questions here  
25 today, would your answers be the same?

1                   **WITNESS POUCHER:** Yes, they would.

2                   **MR. BECK:** I would move that Mr. Poucher's  
3 direct testimony be inserted into the record as though  
4 read.

5                   **CHAIRMAN JOHNSON:** It will be so inserted.  
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**DIRECT TESTIMONY**  
**R. EARL POUCHER**  
**FOR**  
**THE OFFICE OF THE ATTORNEY GENERAL**  
**THE OFFICE OF PUBLIC COUNSEL**  
**BEFORE THE**  
**FLORIDA PUBLIC SERVICE COMMISSION**  
**DOCKET NO. 970882-TI**

1 Q. **Please state your name, business address and title.**

2 A. My name is R. Earl Poucher. My business address is 111 West Madison St.,  
3 Room 812, Tallahassee, Florida 32399-1400. My title is Legislative Analyst.

4 Q. **Please state your business experience.**

5 A. I graduated from the University of Florida in 1956 and I was employed by  
6 Southern Bell in July 1956 as a supervisor-trainee. I retired in 1987 with 29 years  
7 of service. During my career with Southern Bell, I held positions as Forecaster,  
8 Gainesville; Business Office Manager, Orlando; District Commercial Manager,  
9 Atlanta; General Commercial-Marketing Supervisor, Georgia; Supervisor-Rates  
10 and Tariffs, Florida; District Manager-Rates and Tariffs, Georgia; General Rate  
11 Administrator, Headquarters; Division Staff Manager-Business Services, Georgia;  
12 Profitability Manager-Southeast Region, Business Services; Distribution Manager-  
13 Installation, Construction & Maintenance, West Florida and LATA Planning  
14 Manager-Florida. In addition, I was assigned to AT&T in 1968 where I worked for  
15 three years as Marketing Manager in the Market and Service Plans organization.  
16 I joined the Office of Public Counsel in October 1991.

1 Q. **Have you ever appeared before this Commission?**

2 A. Yes I have. I testified on behalf of Public Counsel in United Telephone's Docket  
3 No. 910980-TL on rate case matters and Docket No. 910725-TL on depreciation  
4 matters, GTE Docket 920188-TL on Inside Wire, and in Southern Bell's  
5 depreciation Docket No. 920385-TL. I filed testimony in Southern Bell's Dockets  
6 920260-TL, 900960-TL and 910163-TL, in the recent GTE Docket No. 950699-TL,  
7 and in Docket 951123-TP dealing with Disconnect Authority. In addition, as an  
8 employee of Southern Bell I testified in rate case and anti-trust dockets before the  
9 Public Service Commissions in Georgia and North Carolina.

10 Q. **What is the purpose of your testimony?**

11 A. The purpose of my testimony is to present to the Commission the  
12 recommendations of the Office of the Attorney General and the Office of Public  
13 Counsel for rule changes that should be adopted in order to address consumer  
14 problems resulting from slamming.

15 Q. **What is the basis for the recommendations you are making?**

16 A. Public Counsel and the Attorney General filed a petition with the Florida PSC on  
17 July 15, 1997 asking that the Commission initiate a formal proceeding to  
18 investigate the practice of "slamming" of long distance subscribers in Florida.  
19 Slamming is the unauthorized switching of carriers without the knowledge or  
20 consent of the customer. In response to the request of Public Counsel and the  
21 Attorney General, the Commission scheduled workshops in Pensacola,  
22 Tallahassee, Miami, Ft. Lauderdale, West Palm Beach, Ft. Myers, Orlando, St.  
23 Petersburg, Tampa and Jacksonville under the context of the Commission's  
24 existing rule docket.

25

1 Public input to the Commission as a result of these hearings includes the direct,  
2 sworn testimony of public witnesses. The Office of Public Counsel and the  
3 Attorney General's office have received hundreds of calls and letters (Exhibit REP-  
4 1) as a result of these hearings.

5  
6 The substantial and wide-ranging problems that have surfaced as a result of the  
7 public hearings suggest that if the Commission expects to deal with the concerns  
8 echoed by the public, it should be considering appropriate rules for the switching  
9 of customers by all carriers, including the providers of local, local toll and toll  
10 services.

11  
12 **Q. Why did the Public Counsel and the Attorney General ask the Commission to**  
13 **conduct this hearing when rule changes had already been proposed by the**  
14 **Commission that would deal with the issue of slamming?**

15 **A.** The Office of Public Counsel represents the citizens of the State of Florida in  
16 regulatory matters before the Commission. While the Commission has been  
17 dealing with individual slamming complaints for the past several years, we have  
18 seen a substantial rise in slamming cases received by the Commission in the past  
19 two years. The Attorney General's office has also experienced a sudden rise in  
20 complaints in recent months. However, the Commission was about to adopt rules  
21 without the benefit of any public hearings and without the benefit of formal  
22 discovery by the LECs and the IXC's. The record in this docket and the additional  
23 information received from the various carriers through discovery dictates that the  
24 Commission should not only adopt the rules suggested by its staff, but also  
25 consider additional rules to further protect subscribers.

1 Q. How many customers have been slammed in the State of Florida?

2 A. The Commission recorded 2400 slamming complaints in 1996 and approximately  
3 6000 complaints since January 1995. However, the Commission records are  
4 simply the tip of the iceberg. Many customers deal with the problem of slamming  
5 by calling their LEC without contacting the PSC. Many customers call the FCC.  
6 Attached are the internal reports of BellSouth (Exhibit REP-2) and GTE (Exhibit  
7 REP-3) that may be helpful in quantifying the size of the problem in Florida.

8

9 Our first proposal for the Commission, is that the PSC require a monthly report of  
10 all slamming complaints received by LECs, ALECs and IXC's to the Commission  
11 so that you can begin to track the total volume of slamming complaints in the  
12 state. This is the only way that the Commission can fully appreciate the extent of  
13 the problem and be prepared to deal with the individual companies that are  
14 causing the problem.

15

16 A recent poll released by the National Consumers League indicates that 30  
17 percent of the adult population either has been slammed or knows someone who  
18 has been slammed. The NCL study also indicated that slamming rates were  
19 reported to be higher by African Americans (39%) and Latinos (42%) than by  
20 caucasians (28%).

21

22 The actual number of slamming complaints is substantial, by any measurement  
23 one might choose. However, the sheer volume of complaints is not, alone, the  
24 determining factor as to whether the Commission should take action in this  
25 docket. I would remind the Commission that during the course of the public

1           hearings, you were provided with ample evidence of the personal trauma that the  
2           practices of all the carriers create for customers who are subjected to slamming.  
3           Evidence provided to the Commission as a result of the public hearings calls for  
4           a regulatory fix that will protect customers from slamming abuses within the  
5           telecommunications industry. While slamming is a bad problem in itself, the  
6           procedures currently followed by the companies often make matters worse for the  
7           consumer once a slam has occurred, and we need to deal with these issues also.

8   **Q.   What additional rule changes are proposed by the Office of the Attorney  
9           General and the Office of Public Counsel.**

10  **A.   First, the proposals advanced by the FPSC Staff should be adopted by the  
11           Commission to the extent they are not modified by our proposals. Staff's  
12           proposals address problems that the Commission Staff has been dealing with in  
13           the past four years, and they are appropriate to mitigate some of the abusive  
14           practices of the companies involved. We endorse the proposals of your staff.  
15           They are well thought out. They are drafted well. They are in the public interest.**

16  **Q.   What additional changes are recommended by the Office of the Attorney  
17           General and the Office of Public Counsel?**

18  **A.   We recommend the following changes:**

19           1. When the Staff of the FPSC is in receipt of information that enables the staff to  
20           conclude that a company or its agent has willfully engaged in fraudulent switching  
21           of a customer's choice of carriers, the Commission Staff shall be required to  
22           initiate a separate docket and present each case separately to the Commission  
23           for appropriate disposition. Barring mitigating circumstances the Commission  
24           should consistently impose the maximum fine allowable (\$25,000) when the  
25           company or its agents engage in fraudulent switching of customers.

- 1           2. Upon receiving a complaint from a subscriber of an unauthorized change of  
2 carriers, a LEC is required to:
- 3           a. immediately change the customer back to the customer's original  
4 carrier,
- 5           b. offer to freeze the customer's choice of carriers,
- 6           c. charge back to the slamming IXC all existing billing up to 90 days or  
7 three billing periods, whichever is longer, and credit the customer's LEC  
8 account with the amount of the charge-back, and
- 9           d. block the customer's account from future billing from the carrier that  
10 caused the slam.
- 11          3. The Commission should adopt a rule stating that no carrier guilty of changing  
12 a customer's choice of carriers without knowledge or authorization should be  
13 allowed to bill or collect for any of the services provided to the customer during  
14 the period of unauthorized service up to 90 days or 3 billing periods, whichever  
15 is greater.
- 16          4. The Commission should require that PIC changes may be implemented only  
17 after a written notice has been sent from the IXC to the customer and when one  
18 of the following conditions has been satisfied:
- 19           a. written confirmation of said change of carriers has been received from  
20 the customer, or
- 21           b. an incoming call has been received directly from the customer or a  
22 three way call has been received including the customer and the IXC to  
23 the customer's serving LEC requesting the change, or
- 24           c. an inbound or outbound telemarketing call from the IXC requesting the  
25 change has been verified by a third party recording accepting the change.

- 1           5. The Commission should adopt a specific rule that forbids the use of deceptive  
2           and unfair trade practices by telecommunications companies regulated by the  
3           Commission.
- 4           6. Applicants for certification should be required to certify that the company  
5           intends to provide adequate facilities including free inward toll calling for the  
6           company to receive and process customer inquiries. Further, the company should  
7           certify that it will meet the minimum standards for business office access that  
8           currently apply to LECs. After a company has notified the Commission that it is  
9           commencing retail operations in the state, the Commission staff should  
10          immediately test incoming business office lines to ensure that the company has  
11          installed satisfactory facilities to support customer services.
- 12          7. The Commission should adopt a new rule requiring that all telecommunications  
13          companies subject to the rules of this Commission shall also be subject to the  
14          rules that require LECs to answer 90% of the incoming calls to the Business Office  
15          within 30 seconds.
- 16          8. The PSC should require LECs, ALECs and IXC's to include the last name,  
17          address and telephone number in the transmittal orders involving carrier changes.  
18          LECs should be required to reject orders for carrier changes when the originating  
19          carrier fails to provide the correct last name, address and telephone number of the  
20          customer that matches the records of the LEC.
- 21          9. LECs and all other billing agencies should be required to prominently display  
22          within the first two pages of the customer's bill the name of the presubscribed  
23          local, local toll and interexchange carriers.
- 24          10. All LECs and ALECs should be required to publish annually a billing insert  
25          that explains a "PIC Freeze" and provides a customer with instructions on how to

1 obtain a "PIC Freeze". In addition, new customers would also receive the notice  
2 with their first bill.

3 Q. Please explain your first proposal to deal with fraudulent switching of carriers.

4 A. The PSC Staff is obligated by its existing rules to investigate customer complaints  
5 regarding regulated telecommunications companies. During the course of  
6 slamming investigations, the PSC staff finds in some cases that the customer is  
7 mistaken and others where the company has made a mistake. However, as we  
8 have learned from the public hearings, the staff also learns of willful violations of  
9 Commission rules involving the deliberate switching of a customer's pre-  
10 subscribed carrier without the customer's consent. Only the Commission has the  
11 power to impose sanctions if a staff investigation reveals that a company or its  
12 agent has done this. In such cases, the offending company should receive severe  
13 penalties and they should be handled on an expedited, individual basis to insure  
14 that swift punishment is delivered to those companies who engage in such  
15 practices.

16 Q. Please explain your second proposal to charge-back billing to carriers upon  
17 receipt of a slamming complaint from a customer.

18 A. The most traumatic problems associated with the practice of slamming are  
19 associated with the billing process. Even after a customer has been returned to  
20 the carrier of choice, billing problems continue to haunt the customer. In the  
21 cases of some companies, they have continued to bill and rebill for charges, to  
22 hound the customer and to threaten disconnection of service. The Commission  
23 has heard of numerous instances where the LECs have continued to threaten  
24 disconnection of local telephone service in order to collect charges that have been  
25 incurred due to slamming. The Commission has also heard testimony from



1 numerous witnesses who were unable to ever reach the company responsible for  
2 the billing because of blocked calls, refusal to return calls or simply because the  
3 company did not respond to anything other than written communications. In all  
4 of these situations, the customer is at the mercy of the LEC, the IXC and the  
5 ALEC. The processes that have been adopted by the industry are efficient and  
6 effective for the industry, but they can be harmful and abusive to the customers  
7 whom they are supposed to serve.

8  
9 We propose to place the customer on a more equal footing with IXCs and ALECs  
10 who have the power to charge any amount, at any time, to any telephone  
11 customer's account, with or without the authorization or knowledge of the  
12 consumer. When the LEC receives a complaint from a customer of unauthorized  
13 or fraudulent billing for miscellaneous services or for the unauthorized or  
14 fraudulent switching of local toll or toll carriers, the LEC should be required to  
15 disassociate the customer's regular telephone billing of the charges from the  
16 offending carrier for both past and future billing. This process does not resolve  
17 the ultimate issue as to whether the charges are sustained or not. That is an  
18 issue between the slamming company and the customer. This proposal simply  
19 separates the contested charges from the customer's regular local telephone  
20 billing so that the customer can sleep with the knowledge that his or her local  
21 telephone credit has not been impaired because of unauthorized billing from a  
22 third party unknown to the customer.

23  
24 If the Commission adopts this proposal, then the LEC, the Commission and the  
25 Customer will be relieved of the ongoing burdens of having to deal with months

1 of improper and incorrect billing that inevitably result from a slam. All future billing  
2 and up to 90 days of back-billing, or three billing periods, whichever is greater,  
3 would be charged back to the originating carrier. The slamming carrier could then  
4 pursue the debt collection process separate and apart from the use of LEC billing,  
5 providing that the company was not guilty of providing an unauthorized slam. (See  
6 No. 3 following) This proposal returns control of the customer's telephone bill to  
7 the customer without doing significant harm to the billing and collection business  
8 of the LECs. It also eliminates the problem that many customers complained  
9 about regarding the application of late charges for unpaid amounts left on  
10 customers bills when the customer contests the billing. Specifically, if the LEC  
11 determines that a customer has been slammed, the LEC would immediately credit  
12 the customer's account for prior billed usage and implement a toll block to prevent  
13 future billing from the slamming carrier to the customer.

14  
15 If the Commission fails to adopt this recommended charge-back procedure, then  
16 future customers will continue to be subjected to the "billing traumas" that were  
17 vividly described by numerous public witnesses. The only other solution that will  
18 adequately protect the public would be to adopt public counsel's proposal we  
19 made last year in another docket to disallow the disconnection of local service for  
20 unpaid toll charges for all customers, in addition to the Lifeline customers who  
21 receive such protection today.

22  
23 In addition, when LECs receive a slamming complaint, they would be obligated  
24 to offer to impose a future "PIC Freeze" for the customer that would prevent carrier  
25 changes without written or verifiable telephone consent from the customer.

1 Q. Please explain your third proposal to disallow charges from a carrier to a customer  
2 when the customer has been slammed.

3 A. While the previous proposed rule separates carrier billing in the event that a  
4 customer claims to have been slammed, it does not resolve the ultimate issue as  
5 to whether the customer has an obligation to pay a debt that was incurred without  
6 the customer's consent. The Commission should adopt a rule stating that a  
7 carrier cannot bill or collect for services provided if the carrier is guilty of switching  
8 a customer without the customer's knowledge and consent. This determination  
9 can only be made by the company and the customer after some sort of an  
10 investigation. If the customer and the company are unable to agree, then the  
11 Commission may need to decide. Obviously, when a customer complains about  
12 slamming, then the system has failed because the customer is not knowledgeable  
13 of the transaction. It would be foolish for any company to pursue the collection  
14 process before the Commission if it had not obtained appropriate authorization for  
15 a carrier change. However, if the company is convinced it is right, then nothing  
16 should prevent the company from pursuing normal debt-collection procedures.

17 Q. Please explain your fourth proposal for authorization of carrier changes.

18 A. In order to eliminate the problems regarding unauthorized PIC changes, the  
19 Commission should tighten the verification procedures. No single process has  
20 been identified that cannot be compromised. The most prominently  
21 recommended verification procedure by customers is to require a written  
22 authorization for a carrier change. The Commission staff should develop a  
23 standard form to authorize a carrier change that would be required for use by all  
24 carriers in a workshop that would allow participation by all interested parties. In  
25 addition to the written authorization, customers should receive a separate, written

1 notification of all carrier changes from the carrier that is instituting the change.

2 The PSC staff should specify the language used in the notification letter.

3  
4 The use of third party, recorded verification may be also used to confirm  
5 authorization for switching of carriers that are the result of inbound or outbound  
6 telemarketing efforts. Since inbound calls to LEC business offices are subject to  
7 LEC verification procedures, carrier changes should be allowed by the LECs  
8 without additional verification other than written notification from the new carrier  
9 chosen by the customer. LECs should be willing to accept three-way calls from  
10 the IXC, the customer and the LEC business office for the purpose of changing  
11 carriers. In such cases, the LEC business office should not be attempting to win-  
12 back the subscriber. The PSC Staff should prescribe appropriate verification  
13 scripts.

14  
15 At the present time, we are not proposing two rule changes that have been  
16 frequently recommended by public witnesses during our hearings. These are:

- 17 1. Abolish telemarketing of regulated telecommunications services.
- 18 2. Require written authorization for all carrier changes.

19  
20 The telecommunications industry has been the historical leader in utilization of the  
21 telephone network for commercial transactions. The industry operates on the  
22 assumption that a verbal, telephonic transaction is as good as a written contract.  
23 If more aggressive regulation, stiffer fines and the recommended rules changes  
24 of the PSC Staff and Public Counsel do not eliminate the problem of slamming,  
25 then written contracts with telephonic verification certainly will. We believe this

1 decision is better left for another day after the Commission has tracked the results  
2 of our initial recommendations in this docket.

3 Q. Please explain your fifth proposal to require the Commission to adopt a specific  
4 rule that forbids the use of deceptive and unfair trade practices by  
5 telecommunications companies regulated by the Commission.

6 A. The Commission rules need to explicitly deal with the issue of deceptive and unfair  
7 trade practices. The Commission staff should pursue such cases on an individual  
8 basis and move swiftly to penalize companies that engage in such practices. The  
9 public testimony in this docket includes a number of perfect examples where  
10 customers claimed they were deceived by resellers who were claiming to  
11 represent the primary carrier.

12 Q. Please explain your sixth proposal to require new applicants for carrier certification  
13 in Florida to certify that the company intends to provide adequate facilities for  
14 incoming business office calls.

15 A. One of the more common complaints received from the public in this docket has  
16 been inaccessibility to the business office numbers listed for IXCs. Our proposal  
17 would require that a new IXC or ALEC applying for certification in Florida would  
18 be required to certify their intent to meet minimum standards for business office  
19 access that are currently applicable for the LECs alone. Upon receipt of a notice  
20 from a carrier that it was engaging in business in Florida, the PSC Staff would  
21 then be required to complete test calls to the toll free number of the carrier to  
22 ensure that the carrier was equipped to do business in the state in accordance  
23 with our requirements. We simply shouldn't let them in if they won't answer their  
24 telephone.

25 Q. Please explain your seventh proposal to require all IXCs, and ALECs to meet the

1 minimum standards for business office access that currently apply to LECs.

2 A. The Commission should require that IXCs and ALECs meet the same standards  
3 for Business Office access that apply to the LECs. Staff should also establish  
4 monitoring procedures to especially insure that IXCs accused of slamming are  
5 actually answering the calls directed to telephone numbers those companies  
6 publish in bills for customer contact. This problem is perhaps one of the most  
7 frustrating for customers. It's bad enough to be slammed. But it's traumatic to be  
8 dealing with a company that sends bills while ignoring attempts by customers to  
9 resolve the problem.

10 Q. Please explain your eighth proposal to require matching of last name, address and  
11 telephone number in the processing of carrier change orders.

12 A. One of the more common slamming problems encountered during the hearings  
13 was the problem of a customer's number being slammed and ultimately the form  
14 that authorized the slam was for another customer at another address. The  
15 problem is that the carriers process slamming orders by telephone number only.  
16 Thus, any error in the entire process results in a severe problem for an innocent  
17 customer. These processing errors can be reduced by requiring additional data  
18 in the carrier order that must be matched with existing data in the LEC customer  
19 records. Without a match, the order would be sent back to the originating  
20 company for manual verification. This approach would still allow the companies  
21 to engage in mechanized order processing, but would introduce additional  
22 controls to protect the customer.

23 Q. Please explain your ninth proposal.

24 A. LECs and all other billing agencies should be required to display prominently  
25 within the first two pages of the customer's bill, the name of a customer's selected

1 local, local toll and InterLATA carrier. In addition, the Commission should require  
2 a bill insert when one of the carriers has been changed during the preceding  
3 billing period. This will provide a uniform and consistent method to alert  
4 consumers of a change of carriers.

5 Q. Please explain your tenth proposal regarding the "PIC Freeze".

6 A. All LECs should be required to implement procedures and notify customers on an  
7 annual basis through a billing insert that explains a "PIC Freeze" and provides the  
8 customer with instructions on how to obtain it. During the course of our hearings,  
9 many customers complained that they were unaware of the availability of the "PIC  
10 Freeze" option. In addition, new customers would also receive the notice with  
11 their first bill.

12 Q. Does this conclude your testimony?

13 A. Yes it does.  
14  
15  
16

1 Q (By Mr. Beck) Mr. Poucher, have you  
2 prepared a summary of your testimony?

3 A Yes, I have.

4 Q Would you please provide that?

5 A Commissioners, the Office of Public Counsel  
6 and the Attorney General support first the proposals  
7 that have been made to you by your Staff.

8 Most of the Commissioners have attended  
9 public hearings throughout the state of Florida, and  
10 you know the emotion that surrounds the subject of  
11 slamming.

12 Your Staff, however, has been forced to deal  
13 with these problems every single day for the past few  
14 years, and this is your opportunity to make their  
15 lives a little bit easier, along with the lives of  
16 thousands of Floridians who have been abused by the  
17 process of slamming as well.

18 In addition to the proposals made by your  
19 Staff, which we support, my testimony includes 10  
20 specific changes that should be adopted by the  
21 Commission in order to deal effectively with the  
22 problem of slamming.

23 If only one fix were needed to eliminate the  
24 problems of slamming that you've heard about in the  
25 hearings conducted around the state, you probably



1 would have acted a long time ago and fixed the  
2 problem.

3 My ten proposals, along with those from your  
4 Staff, are aimed at correcting the majority of the  
5 problems that you heard about in those hearings around  
6 the state. Certainly we suggest that you should deal  
7 more harshly with the slammers.

8 In addition we also suggest that if you're  
9 to fully resolve the issues that make the citizens so  
10 angry, that you must also address the billing  
11 collection system itself.

12 I'm not going to go through all of the ten  
13 proposals that are included in my testimony. I  
14 believe, however, if you adopt these proposals, that  
15 the toll billing process will be more responsive to  
16 the citizens who pay for it, and that slamming can be  
17 eliminated in Florida once and for all.

18 I would direct you, however, to the most  
19 critical part of our testimony. That's contained on  
20 Page 6 at the top of the page, and it's my second  
21 proposal out of the ten.

22 What we're recommending here is a procedural  
23 change that would take the LEC out of the middle of  
24 slamming complaints by the four procedures that we are  
25 recommending.

1           The first one is if a customer claims to  
2 have been switched without the knowledge or consent of  
3 the customer, the LEC immediately switches that  
4 customer back to the carrier of choice.

5           The second procedure, the LEC offers a PIC  
6 freeze for the customer's carrier of choice.

7           The third procedure, the LEC charges back  
8 all existing billing from the old IXC up to a maximum  
9 of 90 days and refers the customer account to the IXC  
10 for resolution and collection. This takes the LEC out  
11 of the middle of the conflict, and at the same time it  
12 allows the IXC to justify its own charges.

13           It protects the customer's basic service  
14 from being at risk due to unsubstantiated toll  
15 billing, and it allows the IXC and the customer to  
16 negotiate in order to determine whether a valid  
17 contract exists and whether or not the IXC charges can  
18 be substantiated.

19           If the IXC is convinced that its charges are  
20 appropriate, then the IXC should render a bill and  
21 collect it. If the IXC determines that a slam has  
22 occurred, then there's no basis for the IXC to attempt  
23 further collection efforts.

24           Under this proposal, the Commission would be  
25 required to arbitrate only if the two parties were

1 unable to agree and providing that they were  
2 passionate enough about it to appeal the decision.

3           Our proposal takes the LEC out of the  
4 middle. It involves the PSC only as a matter of last  
5 resort. Our proposal puts the pressure on the IXCs to  
6 be able to justify the basis of the carrier changes  
7 that they make or to suffer possible loss of revenues.  
8 But our proposal also allows the carriers the full  
9 right to collect every penny of legitimate revenues  
10 that are generated as a result of a valid purchase  
11 agreement.

12           In this scenario the validation of the sale  
13 is extremely important to the IXC, just as it is to  
14 the customers today.

15           The final step of our proposal requires a  
16 billing block to take all of the revenues that are in  
17 the pipeline and direct them to the IXC as well,  
18 because it's part of the same problem. If you adopt  
19 this proposal, one call handles the problem with the  
20 LEC. One call does it all, and the IXC is fully  
21 protected to collect all of its legitimate revenues.

22           These last two proposals are the heart of  
23 the testimony that you heard from our customers. They  
24 restore the customers' control over their telephone  
25 bills. They provide a legitimate avenue for the IXCs

1 to collect all of the revenues that they bill that are  
2 a result of a solid, verifiable sale.

3           If you fail to adopt our recommendations,  
4 future customers will continue to be subject to the  
5 kind of billing traumas that were so vividly described  
6 by so many of our public witnesses and also echoed by  
7 these letters that are just like that testimony that  
8 we heard in those hearings from the customers.

9           I ask you to support the customers and vote  
10 in their favor.

11           Q     Does that conclude your summary?

12           A     That concludes my summary.

13           MR. BECK: Mr. Poucher is available for  
14 cross examination.

15           CHAIRMAN JOHNSON: Thank you.

16                           **CROSS EXAMINATION**

17           BY MS. WHITE:

18           Q     Mr. Poucher, Nancy White with BellSouth. I  
19 just have a few questions.

20                   Do you define slamming -- in your definition  
21 of slamming, do you make a distinction between  
22 intentional and unintentional, unauthorized changes of  
23 a customer's provider?

24           A     The definition of slamming in my testimony  
25 is when it is done without the knowledge or the

1 consent of the customer. Slamming involves accidental  
2 slamming as well as intentional and willful slamming.  
3 It's all the same thing. The customer never asked for  
4 it, but he got it. That's a slam.

5 Q Well, you were here when Mr. Taylor was on  
6 the stand, weren't you?

7 A Yes, I was.

8 Q Do you recall our hypothetical where we  
9 talked about if a husband or a wife had changed the  
10 long distance carrier without the other spouse  
11 knowing, whether that would be considered slamming by  
12 you? What would your answer be to that?

13 A That's a whole different issue. But I will  
14 repeat my definition. Slamming is when the customer  
15 is not knowledgeable, does not provide their consent  
16 regarding the switch.

17 Now, the other issue is who is the customer,  
18 and that's a whole different set of questions and  
19 problems. But if you want to talk about that, I'd be  
20 glad to.

21 Q So in that instance you're saying that the  
22 definition of slamming isn't the problem, but maybe  
23 the definition of the customer?

24 A I don't think either one of them are a  
25 problem.

1           Q     Well, okay. Let me put it this way: If  
2 you've got the husband and wife situation, and one  
3 changes without the other's knowledge and consent,  
4 should the local exchange company, the interexchange  
5 carrier, whoever it is, have to deal with the 90 days  
6 free service, the possible fines, all of that?

7           A     Well, there is no free service.

8           Q     Excuse me?

9           A     If a customer, or his wife or her husband,  
10 make a commitment to a company, then they are  
11 obligated for that purchase agreement, whether they  
12 are the customer or not. And the beauty of our plan  
13 is that we take that problem right back to the IXC.

14                     If they negotiated a contract with the wife  
15 and the husband was responsible, then the wife is  
16 responsible. And you deal with that problem at  
17 Southern Bell every single day where you have wives  
18 calling in to order telephone service changes for  
19 service that's listed in the husband's name. And the  
20 same procedures that you use, the same tariffs that  
21 you have that apply to that, are appropriate for the  
22 long distance companies as well.

23           Q     I'm not sure I understand the answer, but  
24 I'll move on.

25           A     You want me to clarify it?

1 Q Well, I guess what I'm looking for is your  
2 policy on Page 6, Lines 6 through 8, is that if  
3 slamming occurs, then 90 days' worth of billing should  
4 be what? Turned back by the LEC if they're billing  
5 for the IXC?

6 A Goes back to the IXC, and then the IXC works  
7 it out; just like you would work it out if a wife  
8 ordered a service change for service that was listed  
9 in the husband -- local service. It's the same  
10 problem.

11 Q Okay. I think I get it. What you're saying  
12 is that the IXC has to figure out who it's going to  
13 get that money from, and they could get it from the  
14 husband if the husband was the one that didn't have  
15 any authority to change the bill?

16 A Well, From a personal standpoint, if my wife  
17 incurs a bill, I'm going to pay for it anyway. And  
18 that's the way it is with most households. And your  
19 business offices operate under that same assumption.  
20 They'll take an order from a wife, they'll take an  
21 order from a husband, and it seems to work very well.  
22 Either one of them can obligate the household of the  
23 obligation.

24 Q In that situation, is that unauthorized --  
25 is that considered slamming in your mind?

1           A     Well, the decision as to whether it's a slam  
2 is not moot. A customer has a right, if he claims  
3 it's a slam, charges the billing back to the IXC, and  
4 then it's up to the customer and the IXC to sort it  
5 out, determine who is responsible, and resolve the  
6 billing.

7                     If it was the wife or if it was the husband,  
8 and if it was my company, AT&T, I'd collect the bill  
9 one way or the other from one of them, and that's  
10 exactly what our proposal contemplates.

11           Q     And I understand that's your position, but  
12 if I could have a yes or no answer. In that situation  
13 is it your opinion that that constitutes slamming?

14           A     No.

15           Q     Okay. Now --

16           A     But I have to follow up. I have to tell you  
17 that if the customer claims it's a slam then the  
18 problem is going to go back to the IXC. And the IXC  
19 is the one who initiated the order. The IXC and the  
20 customer are going to end up resolving that issue, one  
21 way or the other.

22           Q     Well, I guess then I -- does the slam occur  
23 when the customer says "I've been slammed," no matter  
24 what the circumstances are?

25           A     Yes.



1           Q     Also, on Page 6, Lines 9 and 10 you talk  
2 about blocking the customer's account from future  
3 billing from the carrier that caused the slam. Do you  
4 see that?

5           A     On my testimony?

6           Q     Yes.

7           A     Yes.

8           Q     Do you know if that's technically possible?

9           A     Yes, it is.

10          Q     Okay.

11          A     It's not -- do you want me to explain it?

12          Q     Sure.

13          A     Based on the information that I've obtained  
14 from your company, your company does not have a  
15 procedure yet that would enable it within its billing  
16 system to block calls from a individual carrier to an  
17 individual customer. But you can impose that block by  
18 notifying the carrier that a block has been imposed,  
19 and then the carrier does the same thing. And your  
20 explanation to me was that it seems to work very well.

21          Q     But if BellSouth doesn't have a way to block  
22 it, how can we notify the carrier that we're blocking  
23 it?

24          A     Could you ask that one more time?

25          Q     Maybe I didn't understand your answer, but I

1 thought you said that BellSouth stated that they  
2 didn't have a way to block it, but we tell the carrier  
3 that we have a way to block it.

4 A No.

5 Q Then I misunderstood.

6 A You tell the carrier to perform the block,  
7 because the carrier has to do the block back at its  
8 switching system.

9 Q And to your knowledge, the carrier has the  
10 ability technically to do that block?

11 A Yes. It's described in some of the  
12 responses that you made to us in our discovery.

13 Q Is BellSouth responsible if when it tells  
14 the carrier to put that block on, the carrier does not  
15 do it?

16 A I don't think BellSouth would be  
17 responsible, but if the carrier refused to do it, I  
18 think that there are sufficient remedies with this  
19 Commission.

20 MS. WHITE: Thank you. That's all I have.

21 CROSS EXAMINATION

22 BY MS. CASWELL:

23 Q Good afternoon, Mr. Poucher. Kim Caswell  
24 with GTE.

25 Q I believe you mentioned in your summary that

1 this is a very emotional issue, and I'd agree with  
2 that. But maybe we can try and separate out the facts  
3 from the emotions a little bit.

4 Do you know how many PIC changes a year are  
5 made in Florida?

6 A Somewhere I read that, or at least I  
7 extrapolated it. It's probably over a million, but  
8 I'm not sure what the exact number is.

9 Q Do you know what proportion of those are  
10 classified as slams?

11 A No. I've got a pretty good idea of what the  
12 number of slams are, but --

13 Q But you don't have a pretty good idea about  
14 the number of PIC changes?

15 A I haven't calculated the percentages, no.

16 Q Okay. Wouldn't you have to know, really,  
17 what that percentage was in order to determine the  
18 size of the slamming problem in Florida?

19 A Well, I think it would be relevant. I have  
20 calculated that -- I think there could be as many as  
21 100,000 slams a year. We're not sure because there  
22 are no reports given to the Commission by the  
23 companies, and they haven't been ordered yet, so we  
24 really don't know how many slams there are each year,  
25 but 100,000 is a lot.

1           Q     Well, I think I'm focusing on the other  
2 side. I think you mentioned that you don't have real  
3 good information on how many PIC changes a year are  
4 made, do you?

5           A     No.

6           Q     So if there are, say, 2,400 slamming  
7 complaints out of 3,000, that would probably indicate  
8 a much worse problem than 2,400 slamming complaints  
9 out of 3 million PIC changes, for instance? Would you  
10 agree with that?

11          A     I believe the level of disputes and slamming  
12 problems that we have discovered are significant and  
13 deserve to be resolved by this Commission. And I'll  
14 say yes or no to your questions from now on.

15          Q     Okay.

16                COMMISSIONER CLARK: Did you say yes or no?

17                WITNESS POUCHER: I said no.

18          Q     (By Ms. Caldwell) So you don't think --

19          A     I didn't agree.

20          Q     So you don't agree that the total number of  
21 PIC changes is relevant at all to determining the size  
22 of the problem of slamming in Florida?

23          A     I think it would be useful -- yes. I think  
24 it would be useful information, but I don't think it's  
25 critical based on the volume of evidence that we've

1 accrued in this docket here alone.

2 Q When a customer calls in to tell GTE he's  
3 been slammed, what are GTE's procedures?

4 A Today?

5 Q Uh-huh.

6 A I don't believe, I asked GTE those  
7 questions, but I could guess what they are, but I  
8 would be afraid to do that.

9 Q Well, the reason I'm asking is at Page 5,  
10 Lines 5 through 7, I believe, of your testimony you  
11 state that the procedures currently followed by the  
12 companies often make matters worse for the consumer  
13 once a slam has occurred. Are you talking about the  
14 LECs' procedures here?

15 A I'm basic -- no, I'm not.

16 Q So you're just talking about --

17 A Yes, I am. I'm sorry.

18 Q Okay. How can you make a statement about  
19 those procedures if you don't know what those  
20 procedures are?

21 A What I am attempting to echo for you there  
22 is the testimony that we heard in our hearings and the  
23 testimony that's included in these letters.

24 I analyzed the Volume 1 which you got early  
25 on. 33% of the customers in there complain about the

1 inordinate delay to resolve the question and the  
2 problem of slamming.

3           Many customers describe those problems in  
4 terms of trauma, frustration, nervous breakdowns, a  
5 whole range of emotional descriptions, and that's what  
6 I'm talking about. Whatever it is that the companies  
7 do to deal with slamming today is broke, and these  
8 customers testified to that at length; and that's what  
9 we're attempting to fix.

10           Q     But have you done any investigation of what  
11 those procedures are today?

12           A     Well, I've heard your testimony. I know  
13 what your testimony says from the witnesses in this  
14 proceeding. I know that you supposedly hold the  
15 billing in abeyance and don't collect until the issue  
16 is resolved. And the issue goes to the IXCs for  
17 resolution, and the IXC makes a decision. And if the  
18 IXC decides they're right, then it goes back to you  
19 and you start collecting for the bill. These are the  
20 kind of traumas that have been so terrible for the  
21 customers.

22           Q     But I still don't think you -- you answered,  
23 though, that you don't know what GTE does when a  
24 customer calls in to say he's been slammed, right?  
25 I'm focusing on GTE, not the IXCs; GTE's procedures,

1 because you're talking about the LECs' procedures.

2 A Yes.

3 Q You just told me.

4 A I do not know precisely your billing  
5 office -- your business office practices regarding a  
6 slam complaint.

7 Q Okay. Do you suppose that when a customer  
8 calls in to tell us he's been slammed, we switch him  
9 back to his preferred carrier?

10 A I know you do.

11 Q Excuse me?

12 A I know you do.

13 Q Okay. So you do, in fact, know what happens  
14 when a customer calls GTE to say that he's been  
15 slammed?

16 A Sure. I know that.

17 Q So how many calls does a customer need to  
18 make to get his carrier changed back to his preferred  
19 carrier?

20 A Well, it depends on the customer, but in the  
21 customers that we've talked to and heard from in all  
22 these hearings, they describe a process that involved  
23 months. The longest period of time I saw was 18  
24 months. Six months, eight months, 12 months to  
25 resolve the issue of that billing is not unusual for

1 the customers that testified in our hearings. And  
2 each one of those customers generally has to call back  
3 every month, because there's additional billing that  
4 seems to come in on the account.

5 Q But are you talking about consequences of  
6 the LECs' procedures? I'm focusing in only on the  
7 LECs' procedures when a customer calls in to say he's  
8 been slammed.

9 A I'm talking about the existing procedures  
10 between both the LEC and the IXC.

11 Q Okay. And I was trying to get you to narrow  
12 in on the LEC procedures, because that's all I'm  
13 interested in.

14 A Well, I could understand that, but we're  
15 interested in more than that. We're interested in how  
16 we can fix the problem for the customers in total.

17 Q Right. But you have made allegations here  
18 about the LECs' practices. You told me you included  
19 the LECs in here. So I asked you, first, what are  
20 those practices and, two, how are they causing  
21 problems for the customer?

22 A Well, I'd have to add LECs and IXCs. It's a  
23 combination of the process with LECs and IXCs and the  
24 total bill that's the problem. And I'd have to  
25 include the IXCs as well.



1           **COMMISSIONER CLARK:** Mr. Poucher, would you  
2 answer her question with respect to the LEC? I  
3 understand that it may be an IXC that's a problem, but  
4 I think it is important to separate the two since  
5 we're going to have to deal separately with them.

6           **WITNESS POUCHER:** As far as the LECs are  
7 concerned, the practices that I'm aware of are just as  
8 much a problem as the IXC practices, because they hold  
9 on to the customer's basic service bill all of this  
10 toll billing that the customer did not authorize and  
11 was not knowledgeable about, and that bill continues  
12 to mount every month until ultimately the issue is  
13 resolved.

14           That's the LEC process. And it's the same  
15 for Sprint, GTE, BellSouth. It's not any different.  
16 And nobody takes that billing off of the bill. It  
17 stays there until the IXC ultimately gets around to  
18 resolving it one way or the other.

19           **Q**       **(By Ms. Caldwell)** But we can't remedy  
20 those problems unless we know what those specific  
21 procedures are that you're complaining about. If you  
22 say that the LECs' practices are just as bad as the  
23 IXCs', what specific practices are you talking about  
24 so that maybe we can tailor a rule to those specific  
25 practices rather than just complaining that these

1 charges stay on the bill for some reason?

2           A     The practices that you have that are  
3 different from the practices that we recommend. And  
4 all I need to ask you to do is to read my testimony on  
5 Page 6, and that recommendation significantly changes  
6 your practices, and it also alleviates many of the  
7 problems with the customers.

8           Q     How do you know that that significantly  
9 changes our practices if you can't tell us what our  
10 practices are?

11          A     We wouldn't be here today if I were not  
12 recommending a change.

13          Q     Yeah. And that wasn't my question. You're  
14 recommending a change, but you don't know what you're  
15 changing it seems. Is that a fair statement?

16          A     No. We are changing the existing rules, I  
17 assume that you follow the existing rules. We can  
18 argue all day, but I have a different proposal than  
19 what you're doing, and what we want the Commission to  
20 do is to adopt that.

21          Q     Right. And my only point was you couldn't  
22 tell me what we were doing today and what specific  
23 practices that you were complaining about. But we can  
24 go on to something else.

25                 You stated also in your summary, I believe,

1 that the LEC is today in the middle of something. You  
2 said let's take the LEC out of the middle and your  
3 proposals did that. Can you tell me exactly how we're  
4 in the middle today, what that means to you?

5 A Yes, I can.

6 Q Okay.

7 A You're the billing agent. You render the  
8 bill. The IXC negotiates in a slamming complaint.  
9 You refer the customer to the IXC for that negotiating  
10 process in a slamming complaint and, therefore, the  
11 customer is dealing with three parties, and maybe even  
12 four if they rope in the PSC; the customer, the LEC,  
13 IXC, and the PSC.

14 What we're proposing is to eliminate the LEC  
15 from the middle of that process, put the customer and  
16 the IXC in touch directly to negotiate and resolve the  
17 dispute. And most disputes are resolved these days by  
18 negotiation between the parties, and it's a simple way  
19 to do it.

20 Q So you believe your proposal would change  
21 existing procedures by somehow routing the customer  
22 directly to the IXC rather than having to deal with  
23 the LEC to solve the problem?

24 A Yes, I do. And the reason I say that is  
25 because in a slamming complaint the whole issue is who

1 authorized the service and whether it was authorized  
2 or not, or whether it was fraudulent or not.

3           The LEC has no knowledge regarding that  
4 transaction. The customer has to deal directly with  
5 the IXC. The customer has to negotiate directly with  
6 the IXC, or is better off because they can reach some  
7 compromise solution generally on the problem. Much  
8 better to have the customer talking directly to the  
9 IXC.

10           Q     Right. And do you believe today that the  
11 customer is talking to the LEC to negotiate those  
12 issues?

13           A     No. But the LEC continues to bill during  
14 that process.

15           Q     Well, how would your procedure change that?

16           A     Say that again.

17           Q     I'm not sure how your procedures change what  
18 goes on now. If what goes on now is the LEC changes  
19 back a customer when he asks to be changed back, if  
20 the LEC tells him about a PIC freeze, then -- and if  
21 the customer is negotiating directly with the IXC  
22 today, then what's different? How are we taken out of  
23 that process under your proposal, whereas we're put in  
24 the middle of the process under existing rules?

25           A     The primary difference is that if the

1 billing is sent directly to the IXC, the LEC no longer  
2 has the billing associated with the local service of  
3 the customer. The customer is no longer charged late  
4 charges for delayed payment, which happens in GTE  
5 according to the testimony. The customer doesn't have  
6 to call back repeatedly regarding additional calls  
7 that come in or continued explanations as to the fact  
8 that they are continuing to dispute this bill. And  
9 that's a significant problem in GTE.

10 Under my proposal, all of that billing goes  
11 directly to the IXC. The IXC is clear and free to  
12 negotiate with the customer, resolve it, collect it,  
13 or write it off, whichever is the appropriate thing  
14 depending upon the circumstances.

15 Q Isn't it free to do that today?

16 A That's not what happens today. If you were  
17 at the hearings and heard the testimony, then that's  
18 not what happens at all.

19 Q Do you know what --

20 A And, ultimately -- let me add one other  
21 thing. Ultimately the IXC is free to make the  
22 decision of its choice. It can choose to ignore the  
23 customer's complaints, send the billing right back to  
24 GTE, and GTE can then disconnect the service for  
25 nonpayment.

1           There's no sense that I can see in holding  
2 the disconnection of local service for this customer  
3 at risk when they're claiming that they were slammed.

4           Q     And do you believe it's GTE's policy today  
5 to disconnect for disputed slamming charges?

6           A     Well, no. No. You wait until the dispute  
7 is over and the IXC has made its decision, whether the  
8 customer agrees or not, and then you disconnect the  
9 service.

10          Q     So how would your proposal change that? If  
11 the slamming is found to be -- if there's no  
12 justification found to the slamming after this  
13 negotiation between the customer and the IXC, and the  
14 changes -- and the charges with us be sustained, the  
15 customer would be disconnected, how does your proposal  
16 change that?

17          A     My proposal puts the burden on the IXC to  
18 determine that it has a valid bill and to collect it  
19 by whatever means are necessary.

20                   There's a whole lot of difference between  
21 collecting a bill that's disassociated with local  
22 telephone service.

23           COMMISSIONER GARCIA: Mr. Poucher, let me  
24 try to help here; just make sure I'm understanding  
25 you, because I think you're both speaking past each

1 other.

2 If I'm not mistaken, the difference is that  
3 in Ms. Caswell's example is that since the dispute is  
4 between the customer and the IXC, your service with  
5 GTE would not be affected at all.

6 WITNESS POUCHER: That's correct.

7 MS. CASWELL: Yes. That's all I wanted --

8 COMMISSIONER GARCIA: Even if the customer  
9 turned out not to be slammed and the IXC was able to  
10 collect, correct?

11 WITNESS POUCHER: That's correct.

12 Q (By Ms. Caswell) And that's today or under  
13 your proposal, right, that would be true, both cases?

14 A No, that's not true.

15 COMMISSIONER GARCIA: No, Ms. Caswell. If  
16 I'm not mistaken what Mr. Poucher is stressing is that  
17 today you would not collect from the IXC -- I mean,  
18 from the customer until the dispute was resolved. If  
19 the dispute was resolved against the customer, if the  
20 customer did not pay their GTE bill, their service  
21 would be disconnected; is that correct, Mr. Poucher?

22 WITNESS POUCHER: That's today's process.

23 COMMISSIONER GARCIA: Correct.

24 WITNESS POUCHER: And what we are proposing  
25 is something very different than that.

1           **COMMISSIONER GARCIA:** Correct. Under your  
2 process, Mr. Poucher, is if I was a GTE customer, and  
3 AT&T -- and I had a dispute, GTE would not be able to  
4 collect from me -- GTE would continue to bill me for  
5 my local service, and I would continue my dispute with  
6 AT&T until resolved, whether favorably or unfavorably  
7 to my position, but whatever result, it would be  
8 between myself and AT&T, and my local service with GTE  
9 would not be affected.

10           **WITNESS POUCHER:** Yes, Commissioner. That's  
11 exactly right. And the critical part is that AT&T  
12 would lose that extraordinary remedy, the threat of  
13 disconnecting local service. It would just be a  
14 regular business bill rendered to a customer. The  
15 customer would have an obligation to pay if it could  
16 be sustained by the company.

17           **COMMISSIONER GARCIA:** All right, Mr.  
18 Poucher. Then, let me ask you this question, if you  
19 don't mind, Ms. Caswell.

20           What happens to my long distance if -- let's  
21 put it in the same scenario. I have a dispute with  
22 AT&T, and I inform GTE of this dispute. GTE transfers  
23 that part of the bill to AT&T. I pay my local  
24 service, and this is an ongoing dispute which I  
25 continue with AT&T. Would I no longer have long



1 distance service, Mr. Poucher?

2 MR. POUCHER: No. The first thing that the  
3 LEC does when it has a slamming complaint is to change  
4 the customer back to their preferred carrier, whomever  
5 that might be. So the customer -- let's say he was a  
6 MCI customer and AT&T slammed him. He prefers MCI and  
7 always wanted MCI all along. He goes right back to  
8 MCI while AT&T then negotiates its bill.

9 COMMISSIONER GARCIA: Okay. Thank you.  
10 Thank you, Ms. Caswell.

11 MS. CASWELL: Thank you.

12 Q (By Ms. Caswell) Mr. Poucher, you've  
13 proposed some recommendations that aren't in the  
14 proposed rules, haven't you?

15 A Yes, we have.

16 Q And do you think --

17 A We have ten suggestions. Most of them would  
18 have to go into modifications of the rules.

19 Q And do you think the Commission can adopt  
20 your suggestions in this rulemaking procedure?

21 A Yes. I don't think they are substantively  
22 different than what we've been looking at. They're  
23 all issues dealing around the billing and collection  
24 process, and there's been a lot of notice about that,  
25 a lot of hearings. We filed our testimony in November

1 that included those ten items.

2 Q So you don't think the Commission's action  
3 in this proceeding is at all tied to the proposed  
4 rules themselves, the actual text of the proposed  
5 rules?

6 A That's why we proposed the changes. I would  
7 ask you to talk to my lawyer. That might be a legal  
8 question.

9 MS. CASWELL: That's all I've got. Thank  
10 you, Mr. Poucher.

11 CROSS EXAMINATION

12 BY MR. McGLOTHLIN:

13 Q Hello, Mr. Poucher. I'm Joe McGlothlin.

14 I'm looking at Page 6 of your testimony, and  
15 I'm trying to understand your recommendations under 2  
16 at the top of the page, the same recommendations you  
17 went over in your summary.

18 Would you agree with me, sir, that there is  
19 such a thing as an authorized change of carriers?

20 A Yes.

21 Q And I think I heard you say that there's  
22 such a thing as a claim of an unauthorized change that  
23 isn't really an unauthorized change, correct?

24 A Yes, that's correct. One never knows  
25 whether it's authorized or not until you investigate

1 the facts and find out.

2 Q Okay. And one example of that was the  
3 husband and wife situation which, in your opinion, is  
4 an example of either member of the household having  
5 the ability to make the change; is that correct?

6 A Yes.

7 Q And yet I heard you also say in response to  
8 another question that when a customer complains of a  
9 slam that's a slam. Did you say that?

10 A That's correct. Yes.

11 Q So for regulatory purposes, when a customer  
12 files a complaint, then the definition of slam has  
13 been fulfilled, in your opinion; is that correct?

14 A Yes. That's correct.

15 Q And, in fact, on looking at Page 6, Line 6,  
16 even though this is discussing what happens after only  
17 a complaint has been filed, you refer to the slamming  
18 IXC; is that correct?

19 A Yes. That's correct.

20 Q And in Part D of the same paragraph, Line 9,  
21 even though you're talking in terms of what happens to  
22 a complaint, you refer to the carrier that caused the  
23 slam; is that correct?

24 A Yes, that's correct.

25 Q Would you agree that this is sort of a

1 parallel to the idea of guilty until proven innocent?

2       A     Well, I'm going to try to answer your  
3 question, and let me make sure I answer it correctly.  
4 No, I do not. Is that -- do you want me to explain a  
5 little bit further?

6       Q     Yes.

7       A     Okay. I think we're talking about semantics  
8 here. The language that we use to convey whatever it  
9 is we're trying to do here shouldn't trip us up.

10            I think in terms of when you see the word  
11 "slam" in my testimony, it's an event that happens  
12 without the knowledge or the consent of a customer,  
13 and that can be a clerical error. The result for the  
14 customers many times is just as bad as if it were  
15 total fraud because of these procedures that cause  
16 such trauma for the customers.

17            You don't know whether it's an illegal or an  
18 unauthorized slam until you've actually gone through  
19 the investigation process, and that takes a little bit  
20 of time. That's what the IXC's responsibility is.

21            After -- under our proposal, we send that  
22 billing and that problem right back to the IXC. After  
23 all, it was their customer that they sold the switch  
24 to in the first place. They have an obligation to  
25 resolve that problem, and they do that. And they

1 determine whether it was authorized, unauthorized, a  
2 mistake, or whether the customer actually did  
3 authorize it and the customer is at fault. The IXC  
4 can determine that in those cases and then resolve it  
5 with the customer.

6 Q I heard you say that one doesn't know  
7 whether the change of carriers was authorized or  
8 unauthorized until one investigates the circumstances  
9 and makes that determination; is that correct?

10 A That's exactly right.

11 Q Where a complaint -- where an allegation  
12 that such a change has been unauthorized is made to  
13 the Commission, who is making that allegation?

14 A Ask that question one more time.

15 Q In a complaint of an unauthorized PIC  
16 change, who is making the allegation of an  
17 unauthorized change?

18 A I would have to assume that it would be the  
19 customer.

20 Q And yet under this scenario the customer  
21 would have no obligation to provide evidence  
22 supporting that allegation prior to these things  
23 happening; is that correct?

24 A Oh, okay. I understand what you're saying.  
25 The customer would have no obligation to prove that it

1 was an unauthorized slam. All they would have to do  
2 is to make a claim. And then the process goes through  
3 and there's an investigation and a decision.

4 Q All right. Let's talk about that process.  
5 I want to make sure I understand it. The first thing  
6 that happens is that the LEC would immediately change  
7 the customer back to the customer's original carrier;  
8 is that correct?

9 A That's correct.

10 Q Does that mean that during the pendency of  
11 whatever investigation ensues, the original carrier,  
12 who has allegedly changed with the authorization,  
13 would not have the business of a customer bringing the  
14 complaint?

15 A I'm not sure of which -- what you're talking  
16 about, "original carriers." But as soon as the  
17 customer makes the claim, then the customer goes back  
18 to the carrier of his choice, and he's hooked up and  
19 he's generating his calls with the carrier of his  
20 choice. And what's left over is the billing that's  
21 accrued with the carrier that he says was not his  
22 carrier. And then that revenue is at issue between  
23 the IXC and the customer, and that's where it ought to  
24 be.

25 Q The second step that happens is an offer to

1 freeze the customer's choice of carriers. That's an  
2 offer made by the LEC to the customer; is that  
3 correct?

4 A That's correct, yes.

5 Q The third thing that happens, I suppose, the  
6 local exchange company charges back to the slamming  
7 IXC. And let's put "slamming" in quotation marks,  
8 because you and I understand there may not have been a  
9 slam at all, correct?

10 A That's the one that the customer claims to  
11 be a slam.

12 Q All right. All existing billing up to 90  
13 days or three billing periods, whichever is longer --  
14 and let's stop there for a second.

15 Let assume that the alleged unauthorized  
16 change occurred 30 days ago. What is the operative  
17 time frame for this crediting? Is it the 30 days, or  
18 is it the longer period in the suggestion?

19 A Well, let's assume MCI slammed them, and MCI  
20 had only been their carrier for 30 days. You would  
21 only find 30 days worth of billing to charge back to  
22 MCI.

23 Q Okay. That is charged back to the carrier,  
24 and then the customer's LEC account is credited with  
25 the amount of that charge-back; is that right?

1           A     That's correct, yes.

2           Q     And what is the purpose of that provision?

3           A     The purpose of that provision is to direct  
4 all of the revenues that are associated with that  
5 service back to the responsible carrier that made the  
6 sale in the first place, or made the slam or  
7 fraudulently sold it, whatever the facts are. All of  
8 the revenue goes back to that carrier. The carrier  
9 then negotiates with the customer as to whether or not  
10 it's a valid bill or not and collects accordingly.

11          Q     Does that mean that in this scenario the  
12 local exchange company is something of a stakeholder  
13 between the customer and the IXC who is alleged to  
14 have slammed the customer?

15          A     I wouldn't see it that way at all. The LEC  
16 is basically taken out of the whole process. It's  
17 between the IXC that made the sale and initiated the  
18 carrier change and their customer, providing they are  
19 a customer.

20          Q     All right. Well, let's assume that a  
21 customer files a complaint, alleges that Carrier X  
22 changes service without authority, and the customer is  
23 changed back to the prior carrier, and this crediting  
24 is made to the customer's LEC account. And let's  
25 assume for the sake of this example that it's a bogus



1 complaint and that there was authority for the change.  
2 How does the IXC go about collecting that money if the  
3 customer continues to balk?

4 A Well, that's in my testimony and in the  
5 summary. The IXC then renders a bill and collects it.  
6 It's a simple process. They've got the revenue, and  
7 they've got the bill. All they have to do is render a  
8 bill and collect it.

9 Q So would that bill be rendered directly or  
10 through the local exchange company?

11 A Directly by the IXC.

12 Q Okay. Do all IXCs render bills directly  
13 presently?

14 A As far as I know, all IXCs have a billing  
15 process where they can do that.

16 Q Do you believe that there would be any  
17 incentive or encouragement for what we might call  
18 unauthorized claims of slamming by customers if the  
19 customer knew that all he had to do was file a  
20 complaint and this process would unfold?

21 A Well, the problem is that just filing a  
22 complaint does not eliminate the liability that a  
23 customer incurs due to a valid debt. If the customer  
24 incurred the obligation, then they are obligated to  
25 pay it. Making the claim does nothing. There's no

1 such thing as free service.

2 Q The last thing --

3 COMMISSIONER GARCIA: How about,  
4 Mr. Poucher, if customers who have bad credit -- in  
5 other words, phone companies through different methods  
6 extend credit and service to certain customers, but  
7 now IXCs would literally have to check the credit of  
8 their customers because they may not get paid. They  
9 are not guaranteed. Is that not right?

10 WITNESS POUCHER: Commissioner, yes, that --  
11 well, I don't think that they need to check the credit  
12 of their customers, but they should certainly be  
13 concerned about who they are providing service for.  
14 That problem exists today.

15 COMMISSIONER GARCIA: So if they are  
16 concerned about who they are providing service for,  
17 that would mean that people who are bad credit risks  
18 would not be able to receive long distance service.

19 WITNESS POUCHER: No. Basically what our  
20 proposal does is nothing to the billing process. The  
21 IXCs, many of them, bill directly already anyway.  
22 AT&T does a lot of it.

23 COMMISSIONER GARCIA: But the majority of  
24 IXCs do not bill directly. And my question is --  
25 let's return to a scenario. A customer is a bad

1 credit risk. In other words, he doesn't have good  
2 credit, but he is a customer of BellSouth and  
3 BellSouth provides him. He has a long history of  
4 paying BellSouth accounts and he's never had a  
5 problem.

6 That customer, under your rule, would now  
7 become a risk to IXCs, because if he didn't -- if his  
8 BellSouth -- his local service was not contingent --  
9 did not make the long distance service contingent on  
10 it, he would not have to pay for his long distance  
11 service.

12 WITNESS POUCHER: I would disagree. I just  
13 can't agree that customers pay their long distance  
14 billing only because of the threat of disconnection of  
15 local service. Most everybody pays their bills. Most  
16 of mine are paid without the threat of disconnecting  
17 my local telephone service. And customers, as a  
18 general body -- and this is a generalization -- but  
19 they all pay their bills.

20 The uncollectibles of the industry are not  
21 exorbitantly high, and the reason is because most  
22 customers pay their bills. There is this little  
23 element of customers, and they're going to be cheats,  
24 liars, thieves, robbers, they are all in there. And  
25 there may be some fraud, and the companies, both the

1 IXC and the LECs, deal with fraud every day. They  
2 know what it is. It's an element of the customer  
3 body. It's a part of the business. And I don't think  
4 that that fraud is going to go up because of some  
5 billing mechanism that we have that deals with  
6 solicitation of long distance customers.

7           **COMMISSIONER GARCIA:** You don't think that  
8 perhaps the customers get lower rates because the  
9 company is guaranteed payment through the local  
10 exchange?

11           **WITNESS POUCHER:** I don't think that the  
12 uncollectibles would be significantly less if they  
13 bill directly and if you removed the threat of  
14 disconnecting local service.

15           **COMMISSIONER GARCIA:** I'm sorry. Go ahead,  
16 Joe.

17           **MR. MCGLOTHLIN:** I'm nearly through.

18           **Q**        **(By Mr. McGlothlin)** Mr. Poucher, earlier  
19 Mr. Taylor agreed that ultimately the consumers pay  
20 for the cost of regulation. Would you agree with  
21 that?

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

23           **Q**        Would you also agree that ultimately, to the  
24 extent your proposal would cause carriers to incur  
25 costs in order to collect the money they are entitled

1 to, those costs would ultimately be passed on to the  
2 consumers as well?

3       A     Yes, if our proposal did incur additional  
4 costs. But I would strongly advise you that my  
5 proposals, I believe, would severely reduce the costs  
6 of collecting long distance billing and dealing with  
7 the slamming problem. Remember, this is a small  
8 percentage of the total customer body. But slamming  
9 complaints are notoriously bad for anyone who has to  
10 receive them.

11           If you've ever received a slamming  
12 complaint, you'll remember it, because the customer  
13 keeps you there for about 30 minutes and bends your  
14 ear for a long, long time. Your service reps in the  
15 LECs deal with those problems every single day. The  
16 service rep -- representative for CWA appeared before  
17 the Legislature just recently describing about the  
18 costly process of slamming. And the reason is because  
19 it takes so long to resolve that problem. And it not  
20 only raises its head when the customer finds it out,  
21 but it keeps coming back with each subsequent billing  
22 period, so they keep calling back and forth.

23           Our plan significantly reduces service rep  
24 time dealing with slamming problems, and it pushes  
25 that problem over to the IXC which has to resolve it

1 anyway. I see our proposals as much more cost  
2 effective for the entire industry than the existing  
3 process.

4 Q When you say "pushes" what you describe as a  
5 problem over to the IXC, it's the IXC's costs that I'm  
6 talking about in my question. To the extent that the  
7 IXC has to expend money and time and effort in order  
8 to collect the monies it's entitled to because any  
9 change was authorized at the time it was made, those  
10 costs would be passed on to consumers, too, wouldn't  
11 they?

12 A They would be. Of course, they are a big  
13 incentive for you not to slam the customers, and  
14 that's the whole purposes of these proposals.

15 Q And the costs I'm talking about were the  
16 costs associated with the legitimate changes.

17 MR. McGLOTHLIN: Those are all my questions,  
18 Mr. Poucher. Thank you.

19 WITNESS POUCHER: Okay.

20 CROSS EXAMINATION

21 BY MR. WIGGINS:

22 Q Good afternoon, Mr. Poucher. Patrick  
23 Wiggins.

24 A few minutes ago, maybe 20 minutes ago, I  
25 think you spoke about the trauma that unauthorized PIC

1 changes cause customers. Did I understand you  
2 correctly that in terms of your referring back to the  
3 IXC proposal one of the things that was giving  
4 consumers fits was the recurring charges, the charges  
5 recurring on the LEC bill, notwithstanding the fact  
6 that they had been switched back to their preferred  
7 carrier?

8 A Yes, that's correct.

9 Q Okay. So under the current situation, the  
10 trauma comes from the person thinking that he or she  
11 had it resolved and seeing the previous bill come back  
12 to them in one month, come back to them next month,  
13 and still being there?

14 A Yes.

15 Q Okay. If, in fact, the LEC attempted to  
16 disconnect the customer for that disputed amount,  
17 would Consumer Affairs be able to help the consumer  
18 prevent that from happening under Commission rules?

19 A Sure. If the customer files a complaint  
20 with the PSC, providing they are knowledgeable enough  
21 to do that, then they can forestall any action until  
22 the PSC has resolved the problem. But that's a very  
23 small slice of the total slamming problems that occur.

24 The Commission is running about 3,000 a  
25 year, and we're looking at maybe 100,000 slams a year.

1 Most of the problems are resolved by the customer and  
2 the carriers. We don't have enough people at the PSC  
3 to deal with that total problem.

4 Q And I'm focusing on your suggestions to make  
5 this process less traumatic for the consumer. So  
6 under your procedure, when the IXC does choose to bill  
7 through the LEC and it appears to be a slam because  
8 the consumer complains that it's unauthorized, and 30  
9 to 45, 60, 90 days, it's referred back to the IXC to  
10 work it out, if the IXC is adamant that it was a  
11 legitimate switch, if I understand your testimony,  
12 it's left for them to collect the best way they know  
13 how.

14 A That's correct.

15 Q So they would sue the customer?

16 A They can pursue any number of remedies to  
17 collect the bill, just like any other business.

18 Q If they sued the customer in small claims  
19 court or, if it was a high enough amount, in Circuit  
20 Court because they could go 90 days, is it your  
21 testimony that's less traumatic than dealing with the  
22 local exchange company that is trying to work this out  
23 under PSC rules?

24 A No. I think if a customer were sued, I  
25 would have to agree with you that that would be



1 traumatic, just as traumatic as the problems that the  
2 customers testified before.

3 MR. WIGGINS: I have no further questions.

4 Thank you.

5 CROSS EXAMINATION

6 BY MS. WARD:

7 Q Good afternoon, Mr. Poucher. Marsha Ward, I  
8 represent MCI.

9 Just for ease of reference, I'm going to be  
10 referring to the Prehearing Order and the proposal in  
11 that. Do you have a copy of that, Mr. Poucher?

12 A Are you talking about the proposed rules?

13 Q I'm talking about the Prehearing Order of  
14 January -- mine is dated, I think, February the 3rd,  
15 and it has got the AG's and Public Counsel's position?

16 A No. My Prehearing Order and all my  
17 testimony of the witnesses was -- disappeared  
18 mysteriously. If anybody has a copy of the testimony  
19 with red tabs on it, it's mine. Thank you very much.

20 Q You've got a copy now, and let me refer you  
21 to Page 22. I believe on that page that's where it  
22 outlines in the rule format the positions of the  
23 Attorney General and Public Counsel. And I'd like to  
24 discuss a couple of those with you, please.

25 Under No. 1, it states there that if the

1 Commission Staff determines that a customer's choice  
2 of carrier has been changed without authorization or  
3 knowledge of the customer and the change was willful  
4 on the part of the provider, or when the Staff  
5 determines that the provider has engaged in unfair  
6 deceptive trade practices, the Staff will institute a  
7 Show Cause against that carrier.

8 A That's correct.

9 Q Now, does this provision, as it's proposed,  
10 does that make a distinction between a switch of a  
11 customer's carrier without the customer's knowledge  
12 and consent and makes that different than if the  
13 switch was made without their consent and it was  
14 willful?

15 A Yes, ma'am, it sure does. What we're  
16 talking about here is a procedure that we're  
17 recommending for the Commission to utilize to impose  
18 fines on companies, or to remove their certificate.  
19 And those fines that we would propose to be dealt with  
20 are primarily the ones dealing with what I would call  
21 fraud. And that's the purpose of this proposal. It  
22 has nothing to do with dealing with a customer that  
23 claims he's been slammed, may or may not be an  
24 intentional act.

25 Q Okay. So under your proposal, then, or the

1 Public Counsel's proposal, there is a difference in  
2 how the Commission would treat the carrier if they  
3 allegedly changed a customer without their permission  
4 versus changed a carrier without their permission and  
5 it was willful or deceptive?

6 A Yes. I would dare say half of the slams --  
7 what I call slams, where the customer is not aware of  
8 it, perhaps half of them are errors that are occurring  
9 because of the way they process the orders. But  
10 there's an entirely -- another segment of those slams  
11 that sure does look like intentional behavior on the  
12 part of some of the people that are selling  
13 telecommunications services today. And when the  
14 Commission Staff runs into that kind of a situation,  
15 we want them to bring it to the Commission  
16 individually and let them make a determination.

17 Q What are the consequences to a carrier if  
18 the switch was made without the customer's knowledge  
19 or consent, but it was not willful?

20 A If it was an accident, let's say, a  
21 transposition of numbers?

22 Q Uh-huh.

23 A And the first part of the question?

24 Q What are the consequences to the carrier?

25 A Nothing. The carrier -- well, let me take

1 it back.

2           The carrier goes through the same process  
3 that we recommended on Page 6 of our testimony. It  
4 goes back and investigates what happened. If the  
5 carrier, the IXC, determines that they have a valid  
6 contract, that they negotiated a sale with the  
7 customer and they had the right customer, then they  
8 bill the customer and collect it. If they didn't --  
9 if they were dealing with another customer, then they  
10 don't have a contract. And, therefore, they have no  
11 basis to pursue the collection process. It's a  
12 powerful motivation to make sure that when you  
13 transmit your orders to change carriers that you do it  
14 right.

15           Q     But under this proposal, then, if a carrier  
16 switches a customer without their knowledge and  
17 consent, but it was not willful, then the carrier is  
18 not liable for any fines by the Commission?

19           A     Well, I wouldn't go quite that far. We're  
20 talking about an isolated incidence. But let's take a  
21 carrier that does this all the time and it's part of  
22 their business plan.

23           Q     That does what all the time?

24           A     Intentionally pushes errors through the  
25 system in order to slam customers. That's not

1 impossible to imagine that that happens because there  
2 are a lot of slams out there, and we don't know why  
3 some of them are happening. It could well be that  
4 that's the business plan. We don't know. But a  
5 company that does not deal with those kind of errors  
6 and takes prudent steps to eliminate them may be doing  
7 it on purpose, and that's what we would assume.

8 Q But if you see that kind of trend with a  
9 carrier, there are ways to correct that?

10 A Sure. That's correct.

11 Q Under this same proposal that I've referred  
12 you to, it says if the Staff determines that the  
13 carrier changed the customer's carrier without the  
14 authorization and it was willful, Staff will institute  
15 a Show Cause for each offense. Is that for each  
16 individual consumer incident of alleged slamming?

17 A No, not alleged slamming. Basically, fraud,  
18 if you'll take that definition. When the Staff sees  
19 fraud they deal with it individually right there at  
20 that point. They don't wait for them to stack up.  
21 They make a case of it and deal with it and bring it  
22 to the Commission for disposition.

23 Q Do you know whether or not this would  
24 require any additional resources of the Staff or ALJs  
25 or additional hearing time for Commissioners?

1           A     I don't know.

2           Q     So you've not done an economic impact on  
3 your proposal?

4           A     No, but I think it's a problem that needs to  
5 be dealt with, and I don't think the Staff has the  
6 authority to overlook fraud. I think they are  
7 duty-bound to bring that condition immediately to the  
8 Commissioners and let the Commissioners do their job.

9           Q     You also propose that the carrier, once they  
10 get information from the customer to make a switch,  
11 that that information provided to the LEC be a match,  
12 that the customer's name address and phone number  
13 match the LEC's records?

14          A     Yes. Correct.

15          Q     Does that require -- and I believe it also  
16 says the last name must match?

17          A     Yes.

18          Q     There's no requirement that the first name  
19 match?

20          A     Yes.

21          Q     If this espousal situation and these spouses  
22 have different last names, that would cause a reject,  
23 would it not?

24          A     Yes. In other words, the billing or the  
25 listing name would have to be identified by the

1 customer that provides the order to the IXC, and it  
2 would have to match. Otherwise, it would be rejected,  
3 and then you would have to go check and find out why  
4 is it Smith when it ought to be Jones. I'm not saying  
5 you'd just throw it away; you'd go back and check it  
6 out and find out why the difference is there.

7 Q And that would take additional time, would  
8 it not?

9 A Oh, yes. Yes. That's simple verification  
10 of the validity of your order, and that would be the  
11 purpose of those additional edits, to make sure that  
12 you don't let them go through even though there's an  
13 error there.

14 Q Well, I thought I understood you to say that  
15 spouses could make changes for one another and that  
16 would not be a slam or an error?

17 A Yes, I think that's true, but they'd have to  
18 know the listed name or the billing name. If the  
19 spouse didn't know the proper listing or billing name,  
20 then I would wonder whether I was talking to the  
21 decision maker or not.

22 Q Well, you don't necessarily -- you can be a  
23 decision maker and not be the subscriber of record,  
24 isn't that so, under your theory?

25 A Correct. Yes, like a business, you're

1 talking to Jones and it's ABC Awning; you're talking  
2 to different people. But the order has to carry  
3 proper billing or listing name, and if it doesn't,  
4 then you have got a problem with the order.

5 Q But you verified also the address and the  
6 phone number. Shouldn't that give -- I mean, if those  
7 match or if the phone number matches, shouldn't that  
8 be sufficient?

9 A What, just the telephone number and the  
10 address?

11 Q Or just the telephone number as -- do you  
12 know how it works today?

13 A Yes, I do. What I'm saying is rather that  
14 one edit for a telephone number that's a working  
15 number, that you impose three edits. Two edits are  
16 capable within the existing billing system today, and  
17 I'm using BellSouth as an example. BellSouth's system  
18 has the ability to take a working telephone number and  
19 check for that and, second, it will match the listed  
20 name with the name provided by the carrier. And if it  
21 fails to catch a match on that listed name, it will go  
22 to the billing name. So it actually verifies listed  
23 name, billing name and telephone number.

24 Unfortunately, that's not a requirement.  
25 That's an option that is available to the carriers to



1 provide in the carrier system where they transmit  
2 those orders. The carriers by checking a block ignore  
3 those edits and go directly to the telephone number.  
4 And if they've transmitted the telephone number wrong,  
5 then you have a slam.

6 Q I'm an AT&T customer, let's say, but I've  
7 heard about this MCI 5-cent Sundays. It's Saturday,  
8 and I want to take advantage of the 5-cent Sundays. I  
9 call MCI or my LEC and say I'd like to switch to MCI,  
10 and here is my name, here's my address, and here's my  
11 telephone number, but I mistakenly give my address.  
12 Instead of 100 Lakeland Drive, I say it's 100 Lakeland  
13 Street. Everything else is correct, and I've given --  
14 and the information has been verified. If the order  
15 rejects, then I won't get my 5-cent Sunday the next  
16 day, will I?

17 A That's correct.

18 Q And I will have to incur delays, even though  
19 my expectations might be -- and I really want to get  
20 the -- have the opportunity to make 5-cent calls the  
21 next day?

22 A Well, we're assuming that nothing happens  
23 over the weekend, but you executed a purchase  
24 agreement over the weekend, and a rejected order is  
25 only subject to confirmation. I would assume that if

1 you have got a billing system, and people that are  
2 working and an order rejects, that you could turn  
3 around -- turn that order around in a few minutes; a  
4 simple phone call to the customer, discover the error,  
5 re-enter it into the system. And if you take three  
6 days to do it, then, yeah, you'd miss your good deal  
7 on the weekend rate.

8 Q And that assumes I'm sitting around at home  
9 all day Saturday waiting for the call back? I mean, I  
10 may be running errands or other things. And a lot of  
11 people do that, don't they?

12 A It's not a perfect world out there, and it's  
13 a tough process to sell and negotiate orders.

14 Q Let's go to your proposal for the -- I  
15 believe it's now Rule -- under that same section,  
16 No. 8. And you have been asked a lot of questions,  
17 and I don't want to replot that, but I do want to ask  
18 you some questions about your -- your theory, it seems  
19 to me, is that you want to take the LEC out of the  
20 middle, as I believe -- understood you to say.

21 A Right.

22 Q And under your proposal, it's the LEC that  
23 has to change the customer back to their carrier of  
24 choice. Is that correct?

25 A Correct.

1 Q And it's the LEC that has the offer to  
2 freeze the customer's PIC; is that correct?

3 A Right.

4 Q And it's the LEC that has to charge back to  
5 the IXC the existing -- the billing?

6 A Correct.

7 Q And it's the LEC that has to block the  
8 customer's account?

9 A Correct.

10 Q So the LEC is in the middle of this; isn't  
11 it?

12 A Only for the duration of that call and the  
13 execution of that transaction. After that it's out of  
14 the LEC's hands, and it's totally up to the IXC.  
15 There is no second call to the LEC as a result of a  
16 slam.

17 Q But the LEC is the one that is, under your  
18 rule, the one that's authorized to actually handle  
19 this customer's account and bill back to the IXC the  
20 uncollected revenues?

21 A Yes. But I would emphasize to you that that  
22 is far less costly and time-consuming than the  
23 existing procedures that are in place.

24 Q Are you familiar with the term for PIC  
25 changes called "LEC install"?

1           A     No.

2           Q     Are you aware that LECs can -- or that  
3 customers can notify their local exchange company and  
4 say, I'd like MCI, you know, please switch me to MCI?

5           A     Yes.

6           Q     Okay. And the LEC can handle that, right,  
7 right then and there?

8           A     That's correct.

9           Q     Are you aware that there could be install  
10 errors where the LEC representative might transpose  
11 the incorrect telephone number or make an error in the  
12 transaction?

13          A     I don't know one way or the other. It's a  
14 mechanized system, and when they receive calls from  
15 their customers they -- it's all brought up on the  
16 screen mechanically. I would say that the error  
17 process is not like a keypunch error at all. But I  
18 don't know. To answer your question, I'm not sure.

19          Q     Well, assuming that -- let's just accept the  
20 fact that -- or presume hypothetical that there can be  
21 LEC errors in installation, and so under that type of  
22 situation, under your proposal where a customer may be  
23 slammed, under that situation where the LEC is the  
24 carrier that's making the install on behalf of the  
25 IXC, the IXC is going to have to bear the brunt of

1 that error.

2 A Yes.

3 Q And there are no exceptions?

4 A The IXC would have to resolve the problem.

5 Q And they didn't create the situation?

6 A That's correct. I'm not sure that there's  
7 not a fix for that, but I certainly haven't thought  
8 about it.

9 Q Okay. Are you familiar with the billing and  
10 collection agreements between LECs and interexchange  
11 carriers?

12 A Not intimately, but I know that they exist.

13 Q Okay. Do you know whether or not that LECs  
14 might even be -- might be permitted to charge back the  
15 IXC's billed amounts under the billing and collection  
16 agreements?

17 A Well, I assume that they are. And I believe  
18 that they are, but those agreements are constantly  
19 modified and changed and renegotiated; and if it  
20 required a change in contract, then that's between the  
21 two carriers. And the Commission also has the ability  
22 to change those contracts on it's own order, I think.

23 Q What do you base your belief on,  
24 Mr. Foucher? When you say you believe that they can  
25 do that, what do you base that on?

1           A     Just a gut feeling. But I do know that the  
2 Commission has the power and the authority over both  
3 the IXC's and the LEC's; and, therefore, the Commission,  
4 whatever it determines applies in those contracts, it  
5 has the power to order it.

6           Q     But you don't know whether or not those  
7 agreements allow that as they read today?

8           A     No, I do not.

9           Q     One last series of questions, Mr. Poucher.  
10 You also make some additional recommendations  
11 regarding customer service and consumers'  
12 accessibility to that; is that correct?

13          A     Business office access, yes.

14          Q     Yes. And I think inaccessibility is the  
15 issue that you address in your testimony; is that  
16 correct?

17          A     Right.

18          Q     The fact that a carrier might have a  
19 customer service center or several customer service  
20 centers that are opened 24 hours a days, 7 days a week  
21 and the customer is informed either through their bill  
22 insert or -- and through other means of how to contact  
23 the customer service center using the toll free 800  
24 number, doesn't that give the customer the basic  
25 access for that provider to register complaints or

1 other problems?

2 A Only if the provider answers the telephone.

3 Q Well, if it's staffed 24 hours a day, 7 days  
4 a week, you would imagine there's someone there; would  
5 you not?

6 A Providing they have enough people to answer  
7 the telephone, yes.

8 Q Okay. Now, you also -- well, that brings up  
9 another interesting question. You make some  
10 additional recommendations on the call answer times;  
11 is that correct?

12 A That's correct.

13 Q And have you read or reviewed the responses  
14 of any of the other witnesses in this -- or the  
15 testimony of the witnesses stating what the costs of  
16 that would be?

17 A I don't believe that I saw precise dollar  
18 figures to provide business office access, and so I  
19 would have to tell you I did not see any specific  
20 dollar figures.

21 Q Did you review MCIs', do you recall?

22 A Yes, I did. I may not have read it that  
23 closely.

24 Q Okay. If MCI's numbers or the expense would  
25 be an additional 16 to 18 million, and would you agree

1 with me that's a significant sum?

2       A     \$16 to 18 million is a significant sum. I  
3 would assume for myself. Now, for MCI, I'm not sure.  
4 That's probably infinitesimal for that company.

5       Q     I don't know.

6       A     But \$16 million just to answer your  
7 telephone seems like a pretty good investment for  
8 company that's as big as you are.

9       Q     That would be in addition. And we've  
10 already answered the telephone, Mr. Poucher, and that  
11 would be an additional to meet the -- potentially to  
12 meet the call answer times being suggested by the  
13 proposed rules. And if that's an additional cost to  
14 meet Florida requirements, would you agree that  
15 potentially those costs could be imposed on the costs  
16 of telecommunications service in Florida?

17       A     I think, yes, it would be an additional  
18 cost, but it just goes without saying to me that a  
19 company that holds itself out to do business in the  
20 state of Florida can certainly answer 90% of its calls  
21 within 30 seconds, which is a basic standard of the  
22 Commission. And if you don't answer the calls in that  
23 time frame, then maybe that's the source of the  
24 frustration of our customers that was echoed in these  
25 letters and in the hearings before the Commission.



1           Q     Not to be cavalier about consumer's concerns  
2 or their frustrations, but if a customer is not  
3 satisfied with the level of customer service that they  
4 get from MCI or any other carrier, can they not choose  
5 someone else?

6           A     Only if they can get away from the customer.  
7 I don't think you went to the hearings. Our customers  
8 complained that they couldn't get ahold of any of  
9 these carriers, and that may be an overstatement. But  
10 carriers not answering their telephone is a tremendous  
11 problem for the customers of Florida who have been  
12 slammed. And you'll find that throughout those 344  
13 letters and all of the people who attended the  
14 hearings. It is a terrible source of frustration. I  
15 don't think the company should be allowed to do  
16 business in Florida with our telephone customers that  
17 won't answer the telephone in a reasonable length of  
18 time.

19           CHAIRMAN JOHNSON: Ms. Ward, how much more  
20 do you have?

21           MS. WARD: I'm about to conclude.

22           CHAIRMAN JOHNSON: Okay. Go ahead.

23           MS. WARD: Thank you.

24           Q     (By Ms. Ward) Mr. Poucher, just to follow  
25 up, there were representatives from MCI at every one

1 of those public hearings, but can you recall any  
2 specific complaint regarding the level of customer  
3 service or frustration of a customer getting in touch  
4 with MCI?

5 A With MCI?

6 Q Yes, sir.

7 A No.

8 MS. WARD: Thank you. That's all.

9 COMMISSIONER CLARK: Can I ask one question  
10 to follow up on that? Mr. Poucher, would you think  
11 about one thing for me. Does it make any sense to  
12 say, initially these are the rules, but if you violate  
13 them and you slam, then you have to do -- then you  
14 have to do certain things, and you can no longer --  
15 you have to immediately take it off the bill and that  
16 sort of thing, or do you think we should just  
17 implement it and apply it right now?

18 WITNESS POUCHER: Commissioner Clark, the  
19 problem that I see is exactly what you just said: If  
20 you violate the rule and slam, then something bad  
21 happens.

22 Well, who decides whether it's a violation  
23 of the rules and whether it's a slam or not? Unless  
24 we involve the Commission in every single conflict  
25 between customer and telephone company, there's no way

1 to determine. The customer says it's a slam. The IXC  
2 says it's not.

3 COMMISSIONER CLARK: Okay.

4 WITNESS POUCHER: Well, the only way to  
5 resolve that problem is to put them together; not make  
6 a predetermination that is it is a slam or not a slam,  
7 put them together. Let them work it out. If the IXC  
8 can justify its billing, then go ahead and send the  
9 bill and collect it.

10 COMMISSIONER CLARK: Okay.

11 CHAIRMAN JOHNSON: We're going to take a  
12 10-minute break.

13 (Brief recess.)

14 - - - - -

15 CHAIRMAN JOHNSON: We're going to go back on  
16 the record.

17 Ms. Barone.

18 CROSS EXAMINATION

19 BY MS. BARONE:

20 Q Good afternoon, Mr. Poucher. Monica Barone,  
21 representing Sprint today.

22 Mr. Poucher, I'd like to be sure I'm clear  
23 about your testimony on Page 4 where you're discussing  
24 your first proposal. Are you proposing that the  
25 Commission require each LEC, IXC and ALEC to file a

1 monthly report of all slamming complaints?

2 A Yes.

3 Q Isn't it true, Mr. Poucher, that one  
4 customer complaint can result in numerous reporting?  
5 In other words, they will report their complaint to  
6 the LEC who will in turn tell them who -- the  
7 telephone number of the alleged slamming company, and  
8 then they may also contact their presubscribed  
9 carrier?

10 A Yes. There would be -- hopefully, there  
11 would be a match there because the number of IXCs  
12 reporting slams would be the same number as the  
13 combined total for all of the LECs.

14 Q Yeah, you would hope that that would happen.  
15 But it's possible that you'll --

16 A Yes.

17 Q Okay. And then also in that scenario you've  
18 got competitors that will be reporting each other's  
19 slams; is that correct?

20 A You're talking about the LECs reporting  
21 slams for long distance competitors? To the extent  
22 that AT&T -- that Southern Bell would be reporting  
23 AT&T slams, yes.

24 Q And under the scenario, isn't it fair to say  
25 that the Commission may not get an accurate picture of

1 the slamming problem?

2       A     Well, it depends on what your requirements  
3 are. Right now we have no information, and I think  
4 any information would be better than none. As to  
5 whether it's exactly accurate, I doubt that any of the  
6 data that you or BellSouth send to this Commission is  
7 precisely accurate. There's always errors in the  
8 data, and the Commission and the Staff learn to deal  
9 with those errors. They know what they are.

10       Q     So are you suggesting that Staff would have  
11 to -- there would have to be more Staff to address, to  
12 try to ferret out which slamming complaints go with  
13 whom?

14       A     No. I think there's ample Staff here at the  
15 Commission to deal with statistics on slamming. I  
16 think the Commission should be very interested to know  
17 on a month-by-month basis the report that BellSouth  
18 puts out on PIC disputes. It's very interesting  
19 information. May not be precisely right, but it sure  
20 is good reading.

21       Q     Aren't we aware of the categories of types  
22 of slamming complaints that occur already?

23       A     At the Commission?

24       Q     The Commission, the industry, OPC?

25       A     No. Except for Public Counsel's discovery,

1 nobody's gone out to the industry and said, "How many  
2 slamming complaints did you have last month or last  
3 year?" As far as I know, there's no common source of  
4 data that's been gathered from the carriers. And our  
5 whole testimony is based on the assumption that the  
6 3,000 slamming complaints that the Commission is aware  
7 of is simply the tip of the iceberg; that there's a  
8 great deal more slamming out there than what the  
9 Commission deals with in the complaint process.

10 Q So you're not suggesting that these  
11 additional reports will necessarily decrease slamming  
12 complaints, are you?

13 A No, but I think it would at least give us an  
14 idea on an ongoing basis whether slamming complaints  
15 are going up or going down. I think the Commission is  
16 going to probably change some rules as a result of  
17 this hearing. And I certainly believe that the  
18 Commission would be very, very interested in knowing  
19 the impact on that data, whether it be BellSouth's  
20 data or the Commission Consumer Affairs Division.  
21 They are different data sources and they are very,  
22 very significant data.

23 Q So are you suggesting that today we don't  
24 have sufficient data to determine what rules are  
25 necessary?

1           A     I think that we have done substantial  
2 discovery in this case, and I believe that our  
3 discovery is relevant; it indicates that there's  
4 definitely changes that should be made, and we've  
5 recommended them.

6           Q     But not based on a full picture of the  
7 slamming problem in Florida. Is that your testimony?

8           A     No. We asked for that data. We asked for  
9 the data that the Commission does not receive now.  
10 It's in our files. It's right there. I have it. I  
11 know what it is, at least for some of the carriers.

12          Q     Not for all of the carriers in Florida?

13          A     Not for all of them, no.

14          Q     And you're not aware of all of the PIC  
15 changes that have occurred in Florida, are you?

16          A     The total volume of PIC changes, no -- no  
17 I'm not. I know it's well over a million, and I have  
18 not tracked the total number. It's 50 million  
19 nationwide, so there are a lot of PIC change  
20 transactions that occur throughout this country.

21          Q     So are you proposing that the Commission  
22 adopt a new rule today requiring this report?

23          A     Requiring the report?

24          Q     Yes.

25          A     Yes.

1 MS. BARONE: Thank you. That's all I have.

2 CHAIRMAN JOHNSON: Commissioners? Staff?

3 MS. CALDWELL: I just have two questions.

4 CROSS EXAMINATION

5 BY MS. CALDWELL:

6 Q Mr. Poucher, Diana Caldwell from the  
7 Commission.

8 Mr. Poucher, do you know whether the reports  
9 that are received -- that would be received by the  
10 Commission from the LECs, do you know whether they  
11 would include the resellers' numbers as well?

12 A I think that's entirely up to the Staff.  
13 The Staff is the one that goes out and gets  
14 information and data from the carriers. And how they  
15 collect that, they have a lot more knowledge about  
16 that than I do.

17 Q So you're saying that Staff should define  
18 the parameters that the -- these reports should come  
19 in?

20 A Yes. I think they should, and they ought to  
21 sit down with the industry and find out how the  
22 industry collects data now already on slamming  
23 complaints, so that they simply meld that data request  
24 in with the existing reports that the industry is  
25 generating.



1 Q Are you aware of whether or not the LECs  
2 would have the information on the resellers?

3 A Southern Bell's analysis includes every IXC  
4 that's operational through their system. It  
5 calculates slams, I think, per individual carrier as  
6 well as in total.

7 Q Okay. Do you think that if these reports  
8 were filed by the Commission, they may be considered  
9 confidential?

10 A Well, I think Southern Bell -- no. I'm  
11 sorry. I'm mumbling here.

12 Southern Bell's report that we included as  
13 the attachment to my testimony, Exhibit 2, I believe,  
14 is not confidential. The individual carriers that go  
15 behind that report, I don't regard that as  
16 confidential, either. I'm not sure whether the  
17 companies might claim that or not.

18 MS. CALDWELL: Thank you. That's all.

19 CHAIRMAN JOHNSON: Mr. Beck.

20 MR. BECK: Yes. Could I have an exhibit  
21 marked for identification for redirect examination?

22 Chairman Johnson, I'd ask that this be  
23 marked for identification as redirect Exhibit 4.

24 CHAIRMAN JOHNSON: I will mark this Redirect  
25 Exhibit 4.

1 (Exhibit 4 marked for identification.)

2 **REDIRECT EXAMINATION**

3 **BY MR. BECK:**

4 Q Mr. Poucher, do you have the exhibit,  
5 redirect Exhibit 4 for identification, in front of  
6 you?

7 A Yes, I do.

8 Q Is this one of the types of documents you  
9 were referring to?

10 A That's correct.

11 Q And does this include just -- or the title  
12 of this is "Unauthorized Expedited PIC Dispute  
13 Report." Do you see that?

14 A Yes, I do.

15 Q And this is a document you received from  
16 Southern Bell, what, a week ago?

17 A I'm not sure when I received it. It was  
18 part of our discovery that we conducted with Southern  
19 Bell -- BellSouth.

20 Q And does this exhibit indicate that for  
21 Florida for the eight-month period January '97 through  
22 August '97, that in Southern Bell's territory alone  
23 there are 48,990 either unauthorized or expedited PIC  
24 disputes?

25 A Through the third quarter, that's correct.

1           Q     And could you briefly describe what the  
2 expedited PIC dispute is?

3           A     As I understand it, an expedited PIC change  
4 is when a LEC contacts BellSouth and tells them, "We  
5 want an immediate expedited switch back to the  
6 originating carrier." And, typically, that change is  
7 done as a result of a customer dispute. I can't  
8 imagine those carriers calling the company and asking  
9 for an expedited switch-back when the customer is  
10 happy.

11          Q     But, conceivably, this could include a  
12 change -- a customer changing their mind, for example,  
13 not just slams?

14          A     Yes, this includes everything, including  
15 buyer's remorse, which has been mentioned already here  
16 in the hearing. It includes cases of errors due to  
17 simply the transposition of numbers. It includes real  
18 -- actual fraud. It includes the whole gamut of  
19 changes that result in expedited switch-backs. But I  
20 would remind you, you don't expedite a switch-back to  
21 the originating carrier unless a customer is probably  
22 unhappy.

23          Q     And this report is a summary for which there  
24 is more detailed backup; is that right?

25          A     Yes. The detailed backup goes to every

1 carrier that they have on their system.

2 Q So this would break down by carrier where  
3 those 48,990 --

4 A By month; that's correct.

5 MR. BECK: Thank you. That's all I have.

6 WITNESS POUCHER: Could I change one answer?  
7 I said 48,000 through the month of August. August  
8 does not constitute the end of the quarter. I said  
9 the third quarter. It's through the month of August  
10 they had 48,000.

11 MR. BECK: Thank you. That's all I have.

12 CHAIRMAN JOHNSON: Exhibits?

13 MR. BECK: I would move Composite Exhibit 3  
14 and Exhibit 4.

15 CHAIRMAN JOHNSON: Show them both admitted  
16 without objection.

17 (Exhibits 3 and 4 received in evidence.)

18 MR. MCGLOTHLIN: Chairman Johnson, since we  
19 just got this document, could I ask a brief question  
20 for clarification before he's excused?

21 CHAIRMAN JOHNSON: I'm sorry, I didn't hear  
22 the last --

23 MR. MCGLOTHLIN: I said, since we only  
24 received the document a moment ago, could I ask the  
25 witness one question for clarification?

1                   **CHAIRMAN JOHNSON:** I'll allow the question  
2 for clarification.

3                   **FURTHER CROSS EXAMINATION**

4 **BY MR. McGLOTHLIN:**

5           **Q**     Mr. Poucher, you refer to the expedited PIC  
6 dispute as being part of this count. The fact that  
7 it's in the category of expedited does not imply at  
8 all that it was an unauthorized change, does it, sir?

9           **A**     The unauthorized total is inclusive in the  
10 grand total. Part of them are unauthorized; part of  
11 them are expedited because of system errors. They are  
12 all combined together.

13          **Q**     Yes, sir, but the fact that one -- a  
14 complaint is handled under an expedited agreement  
15 between the LEC and the IXC does not imply that a  
16 determination has been made, that even that complaint  
17 was valid; is that correct?

18          **A**     No. It implies that the complaint was  
19 valid. The customer is unhappy. He needs an  
20 immediate switch-back, wants to go back to his  
21 original carrier, doesn't want the carrier that he  
22 wants (sic), and they need to expedite it. And that  
23 tells me that something is wrong as far as that  
24 customer is concerned.

25          **Q**     Mr. Poucher, do you know whether the

1 agreement between the IXC and the local exchange  
2 company to participate in this expedited treatment  
3 involves any agreement on the part of the IXC not to  
4 dispute a claim that a particular change was  
5 unauthorized?

6 A I'm not sure. I think you're referring to a  
7 no fault switch-back which allows the IXCs to have a  
8 reduced rate.

9 Q Yes, sir.

10 A They don't contest whether it was their  
11 fault or whose fault it was. They simply pay the  
12 money, get rid of the problem, get the customer back  
13 to the originating carrier.

14 Q At lower cost.

15 A There's no investigation as a result of that  
16 carrier's decision to do a no fault switch-back.

17 Q And are these expedited complaints examples  
18 of that type of treatment?

19 A Yes. At least they are a portion of it.  
20 I'm not -- I don't think they are all of it, but  
21 they're certainly a major portion of it.

22 MR. McGLATHLIN: That's all I have.

23 CHAIRMAN JOHNSON: Any re-re? (Laughter)

24 MR. BECK: No re-re.

25 CHAIRMAN JOHNSON: Okay. You're excused.

1 Thank you.

2 (Witness Poucher excused.)

3 MR. MCGLOTHLIN: Chairman Johnson, I've  
4 checked up and down the table, I don't think anyone  
5 objects to taking the LCI witness next if that's all  
6 right.

7 CHAIRMAN JOHNSON: Okay. If you could then  
8 call your witness.

9 MR. MCGLOTHLIN: Call J. Scott Nicholls.

10 - - - - -

11 J. SCOTT NICHOLLS

12 was called as a witness on behalf of Florida  
13 Competitive Carriers Association and, having been duly  
14 sworn, testified as follows:

15 DIRECT STATEMENT

16 BY MR. MCGLOTHLIN:

17 Q Mr. Nicholls, as soon as you're ready,  
18 identify yourself and give us your comments, please.

19 A My name is J. Scott Nicholls. I'm senior  
20 manager of state affairs for LCI. I'm located at 8180  
21 Greensboro Drive in McLean, Virginia, Zip Code 22102.

22 I wanted to thank the Chairman Johnson and  
23 Commissioners for giving me the opportunity to present  
24 LCI's brief comments.

25 LCI is participating in the rulemaking

1 proceeding for several reasons. Primarily, we were  
2 down here today to discuss the issue of the 900/976  
3 billing block, and I will condense my comments down  
4 substantially as a result of having that severed.

5           But even with that particular issue removed  
6 from the proceeding and move into another rulemaking,  
7 LCI had provided on January 23rd both its statement of  
8 economic cost to implement the rules as proposed by  
9 the Commission Staff and its separate comments on the  
10 23rd and to give the Commission a sense of what kind  
11 of cost LCI would incur to implement these rules if  
12 you had not looked at it.

13           In particular, it results in approximately  
14 10% of our intrastate revenues that we're going to  
15 take a hit on to do this. And I'll give you a little  
16 bit of details on one particular rule and how much it  
17 would cost LCI to comply with that.

18           Let's see. Specifically, however, and which  
19 I brought up in my comments, I'd like to let the  
20 Commission know that the primary concern that LCI has  
21 as a national carrier is rule modifications that  
22 require companies like LCI to have to modify their  
23 systems to implement state-specific regulations.  
24 Those are by no means easy.

25           Some of the examples of those type of rules



1 that the Commission has before them are, for example,  
2 which has been discussed is the certificate number to  
3 be put on the bill, the requirement which hasn't been  
4 talked about today about the maintaining of a PIC  
5 freeze form.

6 Any type of a system where an IXC has to  
7 maintain forms that they will have to distribute to  
8 its sales representatives, or to make sure are  
9 available for customers upon request, to make sure  
10 they have a current version of those forms available,  
11 add additional administrative costs to LCI's operation  
12 to maintain those. We've suggested, for example, on  
13 the PIC freeze form that that form be available at the  
14 Commission and that we could notify customers -- we  
15 have no problem telling them -- that that's available  
16 and they could go to the Commission, either web site  
17 or directly request a copy of that, as opposed to LCI  
18 having to maintain those particular forms.

19 Another particular rule that's been proposed  
20 and been discussed for quite a period of time here was  
21 25-4.118(8), which is the discussion about the refund  
22 of all charges within 90 days and then rerating of  
23 calls between 90 days and 12 months. LCI's estimate  
24 that we provided in our comments, due to primarily an  
25 additional storage requirement in our computer systems

1 and other types of systems that would have to be  
2 written or programs to access that information because  
3 of the length of time we have to maintain the call  
4 record information, would put us towards \$3 million to  
5 have to modify to comply with that particular portion  
6 of the rule. And by no means is that a small amount  
7 to LCI in -- as compared to its total revenues within  
8 the state of Florida.

9           To give you an -- it's not just a problem as  
10 far as the cost to do it, but -- let me clarify that.  
11 What we also find is that what that does is it puts us  
12 in a position of having to comply with even proposed  
13 rules that are different from -- the FCC proposals  
14 would differ from the state in the treatment of the  
15 way you do refunds.

16           Presently the current rules also FCC require  
17 carriers to rerate those calls at a lower cost, which  
18 LCI does. And I believe that the current Florida  
19 rules of the require rerating, which LCI does in the  
20 event that it has to make amends to customer?

21           The proposed rules would require that all  
22 charges be given back to the customer directly. And  
23 there was some discussion about the possibilities that  
24 customers would delay, you know, reporting it so they  
25 could take advantage of the free service. And one of

1 the things that the FCC rules propose, which is  
2 different in the current version, is that the charges  
3 would be credited back to the carrier, the original  
4 carrier, so it wouldn't go to the customer.

5           So you would have a difference there, if the  
6 Commission were to adopt one rule and the FCC were to  
7 put in place another rule, how carriers would have to  
8 refund monies. They would have to have two mechanisms  
9 to track the crediting back of charges.

10           The other issue that I wanted to really  
11 touch on to give you an example of the problems we  
12 have with differences between federal and state rules,  
13 there's a lot of discussion about the check  
14 mechanisms. LCI does not engage in the check  
15 mechanisms, but to give you an example of how that  
16 creates a problem, when a carrier solicits a change  
17 from a customer in a state where you do not have a two  
18 PIC, that is the interLATA and intraLATA, and in  
19 Florida I believe if you select your interstate  
20 provider as, for example, LCI, you also get the  
21 intrastate, not necessarily the intraLATA, but you get  
22 the intrastate automatically.

23           So it's difficult, you know, to select that  
24 out, so when a customer signs up they do get that.  
25 Now, they can pick a second intraLATA carrier. What

1 you're presented with if you have a separate  
2 requirement, for example, do not have inducements on  
3 check or have a separate LOA requirement, is that you  
4 actually have to put before the consumer two types of  
5 documents to be in compliance.

6           That's difficult for salespeople to  
7 overcome. LCI does a lot of face-to-face sales to get  
8 customers to sign one and then another, plus again the  
9 administrative difficulties of maintaining those  
10 duplicate documents, making sure you have them  
11 together and that they are there.

12           And basically I'm not going to go into too  
13 much more detail --

14           **COMMISSIONER GARCIA:** You do realize we're  
15 not interested in the duplicate of the other document.  
16 The raffle, the free car, the frequent fliers has no  
17 interest for us. I mean, you may want to keep them  
18 for your records, but certainly for our records, it's  
19 not important --

20           **WITNESS NICHOLLS:** As --

21           **COMMISSIONER GARCIA:** As long as you have a  
22 separate LOA. I mean, that's what we want to keep a  
23 record of.

24           **WITNESS NICHOLLS:** Understood. And I'm  
25 using that as an example that any rules that require,

1 though, if they were to use the LOA, the check LOA,  
2 the federal rules permit you to change your carrier by  
3 using this. The FCC current rules and, I believe,  
4 even the proposed rules allow carriers to change their  
5 underlying provider by signing and acknowledging that.

6           If you vary that at the state level and take  
7 away that opportunity, in essence what you could only  
8 do is -- by using that check, if AT&T or MCI or LCI  
9 wanted to use a check method to do that, you could  
10 only change their interstate service. That's a  
11 difficult thing to do when you basically normally get  
12 the both the inter and intrastate from that change.

13           I brought that up just as an example in how  
14 the differences in the federal rules and what the  
15 state could put in. And we have a problem in having  
16 to deal with that.

17           And the last comment was, basically you've  
18 heard plenty of it. And we have a couple of concerns,  
19 obviously, is that LCI's corporate position is to  
20 provide service to our customers that is simple, fair,  
21 and inexpensive. And we try to do that, not as a  
22 advertisement for the company, but we recently  
23 introduced the exact second billing for both  
24 residential and consumer business customers within the  
25 last 60 days.

1           So we take that very seriously, and we're  
2 concerned that any type of regulations that are  
3 imposed on the industry are done and that they are  
4 valid, but that they also take into consideration  
5 carriers' costs to comply with those.

6           And in LCI's case, these increases, if they  
7 are put in as proposed, could, in fact, result in us  
8 having to try and recover those. We can't simply bear  
9 the burden of those all the time.

10          Q        (By Mr. McGlothlin) Mr. Nicholls, you  
11 referred to the proposed requirement of placing the  
12 certificate numbers on the bills. Would you explain  
13 why that would be problematic?

14          A        Yeah. LCI's billing system, that would  
15 require a modification of LCI's billing system. And  
16 many other interexchange carrier have a national  
17 billing system they would have to separate out and  
18 write separate programs and have additional coding  
19 that would have to be put on the bill in order to  
20 locate that particular certificate number on there.

21                It actually is a physical process. Somebody  
22 has to go in and encode that information onto the  
23 bill. We provided, for example, just the nonrecurring  
24 charge to LCI to include that information of \$250,000  
25 to do that. It is a one-time charge but, nonetheless,

1 we have to have somebody physically do that.

2 I'd like to add just briefly to that, also.  
3 Several other charges, anything else that has to be  
4 put on the bill, the Commission's rules propose a lot  
5 of information be put on the first or the second page  
6 of the bill, and they've suggested that they don't  
7 want to have inserts.

8 The same problem holds, is that it's  
9 difficult to put those on the bills, and an option for  
10 carriers is to do billing inserts or direct mail  
11 pieces to their customers, which in some cases if  
12 compliance is required, is less costly. Even though  
13 we may have to do a separate mailing, it's less costly  
14 than having to do an encoding in the billing system to  
15 handle that.

16 MR. MCGLOTHLIN: Mr. Nicholls is available  
17 for questioning.

18 COMMISSIONER GARCIA: But generally it's  
19 done, right? I mean, I think Ms. Caldwell has some  
20 copies that I gave her of one of my billing systems.  
21 Putting it into the bill isn't that tough. I mean,  
22 I've seen it in my bills in the form of advertisers.  
23 They'll take a whole page to advertise some new  
24 service or something and it's right into the bill.

25 WITNESS NICHOLLS: There are two types of

1 areas that that happens, and one of them is areas  
2 where you can put information in.

3           For example, certain carriers in certain  
4 states have requirements to provide notice to their  
5 consumers of rate increases or rate changes, and they  
6 can put those in a section that is reserved for that  
7 use. The other information, such as the certificate  
8 number that would be required on a constant basis, has  
9 to be located in a different portion of the bill and  
10 has different logic associated with that. So there's  
11 two portions to that.

12           I am not a billing expert, but I had to deal  
13 with my billing departments in this company and in  
14 others for close to 14 years. They don't tell me  
15 these things just to say they can't do it. They try  
16 and explain that there are separate ways that there  
17 are separate ways that these are coded on there.

18           So the problem we would have if we reserved  
19 that in the recurring section, it takes away  
20 additional space that would be used for customer  
21 information on whatever else we are obligated to do.  
22 But there is a hard coding required for a recurring  
23 type of an announcement that would have to be on a  
24 bill.

25           MR. McGLOTHLIN: Does that conclude your



1 comments, Mr. Nicholls?

2           **WITNESS NICHOLLS:** One other comment I was  
3 going to ask is that -- I was going to ask about the  
4 statement of economic cost, if we could have what I  
5 filed on the 23rd attached to that, because we did  
6 propose lower cost alternatives even though we didn't  
7 file it as a separate document.

8           **MR. MCGLOTHLIN:** Yes. Commissioners, I've  
9 had this conversation with Staff during the break. In  
10 the comments, Mr. Nicholls, in addition to describing  
11 the impact of certain proposals, offered some  
12 alternative lower costing suggestions with the intent  
13 that they be included in the assessment of the  
14 economic cost of the regulations.

15           Staff in their analysis incorporated only  
16 those separate stand-alone documents that were  
17 identified as such, but I think if I'm correct,  
18 they've agreed that in the next iteration of that  
19 analysis they will include Mr. Nicholls' suggestions  
20 in their assessment.

21           **CHAIRMAN JOHNSON:** Staff?

22           **MS. CALDWELL:** That is correct. I think  
23 it's our intent that once we've gone through the  
24 record and Staff comes back with a recommendation, at  
25 that time if we have any changes to the rules, we



1 STATE OF FLORIDA)  
2 COUNTY OF LEON )

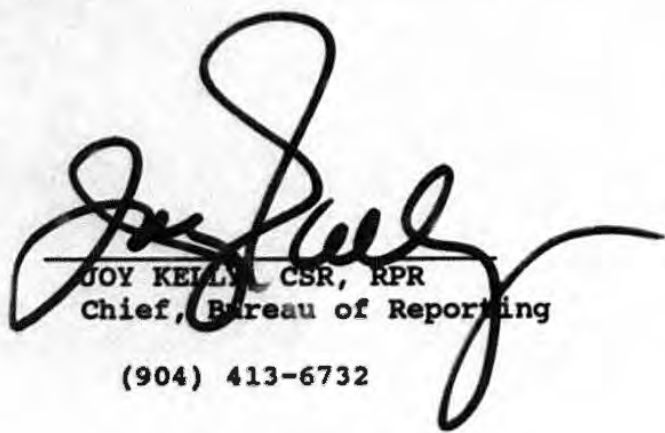
CERTIFICATE OF REPORTER

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

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

9 CERTIFIED that I stenographically reported  
10 the said proceedings; that the same has been  
11 transcribed under my direct supervision; and that this  
12 transcript, consisting of 313 pages, constitutes a  
13 true transcription of my notes of said proceedings  
14 and the insertion of the prescribed prefiled  
15 testimony of the witnesses.

16 DATED this 16th day of February, 1998.

17   
18 JOY KELLY, CSR, RPR  
19 Chief, Bureau of Reporting  
20 (904) 413-6732

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