

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of : DOCKET NO. 970882-TI
:
Proposed Rule 25-24.845, :
F.A.C., Customer Relations; :
Rules Incorporated, and :
Proposed Amendments to Rules :
25-4.003, F.A.C., Definitions, :
5-4.110, 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. :



FIRST DAY - AFTERNOON SESSION

VOLUME 4

Pages 512 through 679

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: Monday, February 16, 1998
TIME: Commenced at 2:00 p.m.
Concluded at 6:18 p.m.
PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida
REPORTED BY: JOY KELLY, CSR, RPR
Chief, Bureau of Reporting
H. RUTHE POTAMI, CSR, RPR
Official Commission Reporters

APPEARANCES:

(As heretofore noted.)

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P R O C E E D I N G S

(Transcript follows in sequence from
Volume 3.)

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

JANE KING

was called as a witness on behalf of MCI
Communications Corporation and, having been duly
sworn, testified as follows:

DIRECT EXAMINATION

BY MS. WARD:

Q Ms. King, you were previously sworn in; is
that correct?

A Yes.

Q For the record, could you please state your
name and business address?

A My name is Jane King. My business address
is 1200 South Hayes Street, Arlington, Virginia.

Q And by whom are you employed and in what
capacity?

A MCI Telecommunications in the capacity of
senior manager, consumer affairs.

Q Ms. King, in preparation for this
proceeding, did you cause to be prefiled with the
Commission 17 pages of direct testimony including two

1 exhibits?

2 A Yes, I did.

3 Q Do you have any changes or corrections to
4 your direct testimony?

5 A No.

6 Q So if I asked you the same questions today,
7 your answers would be the same?

8 A Yes.

9 MS. WARD: Madam Chairman, could we have
10 Ms. King's direct testimony copied into the record?

11 CHAIRMAN JOHNSON: It will be copied or
12 inserted as though read.

13 Q (By Ms. Ward) And also, Ms. King, you did
14 prefile, I believe, 18 pages of rebuttal testimony?

15 A Yes.

16 Q And that also included one exhibit?

17 A Yes.

18 Q Do you have any changes to your rebuttal
19 testimony?

20 A Yes; to delete the question that appears at
21 Line 13, the question and answer, Line 13 through 24
22 on Page 14, because that issue has been severed from
23 this hearing.

24 Q So Page 14, Lines 13 through 24 should be
25 deleted; is that correct?

1 **A** (Witness nodding head.)

2 **Q** And with that correction and deletion, if I
3 asked you the same questions in your prefiled rebuttal
4 testimony, your answers would be the same?

5 **A** Yes.

6 **MS. WARD:** Madam Chairman, we'd like to have
7 Ms. King's prefiled rebuttal testimony inserted into
8 the record.

9 **CHAIRMAN JOHNSON:** It will be so inserted.

10 **MS. WARD:** And we'd like to have the
11 exhibits, which are three exhibits designated as
12 JMK-1, 2, and 3, marked for identification as the next
13 composite exhibit.

14 **CHAIRMAN JOHNSON:** JMK-1 through 3 will be
15 marked as Composite Exhibit 12.

16 (Exhibit 12 marked for identification.)
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25

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 **A. My name is Jane King and my business address is 1200 South Hayes Street,**
3 **Arlington, VA 22202.**

4

5

6 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

7 **A. I am employed by MCI Communications Corporation in the Law and Public**
8 **Policy Division as Senior Manager, Consumer Affairs. My responsibilities**
9 **include management of public policy issues related to marketing of**
10 **telecommunications services to residential and small business customers. I**
11 **also oversee the management of complaints forwarded to the Law and Public**
12 **Policy Division that have legal or public policy ramifications.**

13

14

15 **Q. PLEASE GIVE A BRIEF DESCRIPTION OF YOUR BACKGROUND**
16 **AND EXPERIENCE.**

17 **A. I have 16 years experience in many facets of consumer protection and public**
18 **policy related to representation of the interests of consumers. I have worked**
19 **on behalf of consumers in the non-profit and government sectors prior to my**
20 **employment by MCI. For the last six years, as an MCI employee, I have been**
21 **involved directly with customer issues and worked closely with consumer**
22 **organizations. I have a BA in English from Duquesne University and all of**

1 the graduate course work for a Masters in English from the University of
2 Virginia.

3
4
5 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

6 **A.** The purpose of my testimony is to identify those areas in the Commission
7 staff's proposed Customer Service Rules that MCI can support, and to
8 identify those areas that might impose a burden on consumers without adding
9 to the protection of their interests. We will also note the financial impact of
10 some of the Commission staff proposals on MCI, and therefore, on our
11 customers.

12
13
14 **Q. CAN YOU IDENTIFY THE REASON FOR INCREASED CONCERN**
15 **ABOUT UNAUTHORIZED SWITCHES OF CARRIERS?**

16 **A.** Perhaps most important, in terms of overall consumer protection, the public
17 is much better informed about the telephone services marketplace than it was
18 until recently. During the past year, your offices and those of other
19 regulators have worked closely with the media to disseminate information
20 that helps consumers to understand carrier switches and ways for consumers
21 to protect themselves against slamming.

22

1 MCI has also helped to educate consumers about selecting a telephone carrier
2 and ways to avoid being "slammed" or converted to a carrier without
3 authorization. MCI produced two recently published booklets with consumer
4 groups, "Making the Best Call" and "Countdown to Smart Dialing". Both
5 have been widely distributed, and the text of each of these booklets is on the
6 MCI web site <www.mci.com>. A copy of the information from our web site
7 is attached as exhibits JMK-1 and JMK-2.

8
9 MCI also works closely with the media to place articles warning consumers
10 about "slamming" frauds and recommending steps to take to avoid being a
11 victim.

12
13 Additionally, the advent of equal access, with carrier choice now available for
14 intraLATA services and, to a much lesser degree, local services, raises
15 significantly the sheer volume of carrier switches. Estimates of the number of
16 switches in 1996 are as high as 50,000,000, a total that represents half of the
17 residential lines in the country.

18
19
20 **Q. ARE ALL PIC DISPUTES ACTUAL "SLAMS"?**

21 **A.** Many disputes about carrier switches are not slams. In fact, MCI's
22 experience indicates that at least half of the complaints reported by local
23 carriers as "PIC disputes" are not slams, but are legitimate switches that are

1 being disputed for a reason other than slamming. Several types of PIC
2 disputes that are not slams include: disagreement in a household, when one
3 party authorizes the switch and another objects or is unaware of the PIC
4 switch; changes of mind about choice of carrier; faulty orders, sometimes due
5 to clerical error, sometimes due to errors in transmitting the data. Some
6 unauthorized switches (a not inconsiderable number) result from subscriber
7 fraud.

8
9
10 **Q. IS THERE A PROCESS IN PLACE TODAY TO ADDRESS**
11 **CONSUMER PIC DISPUTES?**

12 **A.** Currently, most PIC disputes are reported by consumers to their local carrier.
13 In order to facilitate rapid restoration of service to the carrier of choice, the
14 FCC has authorized so-called "no-fault" PIC dispute resolution, the practice
15 used by MCI and other IXCs with most of the local carriers around the
16 country. Through "no-fault" resolution, the local carrier reports that the
17 consumer disputes the PIC, switches the consumer back to the original
18 carrier, and assesses the company with the disputed PIC for the switch fee.
19 The current "no-fault" PIC dispute resolution process represents long distance
20 carrier acceptance of responsibility for all PIC disputes, whether or not the
21 carrier had any responsibility whatsoever for the dispute. The "no-fault"
22 process, at least when responsible carriers are involved, assures rapid
23 management of consumer complaints and restoration to consumers of the

1 services of their carrier of choice, and also compensates them for the PIC
2 switch fee. The no fault tariff however, has one huge and obvious flaw. The
3 local carrier does not have any requirement to research the cause of the
4 dispute. Therefore, local carrier reports of PIC disputes are highly inflated,
5 because the many reasons for disputing switches listed above are not
6 accounted for. Instead, all are characterized as "slams".
7
8

9 **Q. WHAT SHOULD BE THE DEFINITION OF AN UNAUTHORIZED**
10 **SWITCH, OR "SLAM"?**

11 **A.** The proposed rules do not define an unauthorized switch. If IXCs and other
12 carriers are culpable for unauthorized switches, the activity should be defined.
13 An unauthorized switch is the conversion of a consumer's carrier without
14 consumer consent. From MCI's perspective, however, and clearly from the
15 Commission staff's perspective, the consent must be affirmed through
16 appropriate verification, i.e., through the verification methods authorized by
17 the Federal Communications Commission (FCC) and/or the Florida
18 Commission. At MCI, verification of sales occurs through two methods
19 only: Third Party Verification of all outbound and inbound telemarketing sales
20 and agent sales, and letters of agency for all orders received via business reply
21 envelope or check LOAs.
22

1 MCI believes that all sales that are confirmed by methods authorized by the
2 appropriate regulatory body must be viewed, by definition, as authorized
3 sales. For example, a consumer who reports a PIC dispute that, in fact, is
4 discovered to the result of buyer's remorse following a properly verified sale,
5 is not an unauthorized PIC, or "slam."

6
7
8 **Q. DOES MCI AGREE WITH THE COMMISSION'S**
9 **RECOMMENDATIONS FOR THE VERIFICATION OF CONSUMER**
10 **REQUESTS FOR SWITCHES OF TELECOMMUNICATIONS**
11 **CARRIER?**

12 **A.** MCI shares the Commission's concerns about slamming. We have taken a
13 leadership role in advocating effective, consumer-friendly measures that
14 would help our industry crack down on slamming, while permitting flexible
15 consumer choice. MCI believes that serious consideration should be given to
16 adopting Third Party Verification--or TPV--as a requirement for all carrier
17 switches. MCI's own experience with TPV convinces us that it is the single
18 most consumer-friendly and effective approach to curbing slamming.

19
20
21 **Q. HOW DOES MCI USE TPV TO CONFIRM PIC SWITCHES?**

22 **A.** TPV confirms consumer desire to make a switch of carrier via an independent
23 third party verification company. TPV verification is short, consumer-

1 friendly, and effective. It confirms essential information about the customer's
2 decision to switch in a one to two minute call. Importantly, the TPV company
3 has no commission or other financial incentives to confirm sales orders. The
4 company simply verifies customer choice.

5
6 It's an efficient process. It avoids order entry delays that are otherwise
7 involved if written customer LOAs must be gathered. It permits consumers to
8 begin enjoying promised benefits sooner. MCI's experience is that customers
9 like it. TPV acknowledges the modern reality that consumers want to deal
10 with phone service issues over the telephone.

11
12
13 **Q. WHAT IS MCI'S EXPERIENCE USING TPV?**

14 **A.** Importantly, for purposes of the Commission's focus on slamming, TPV is a
15 proven means of reducing unauthorized conversions. MCI's own experience
16 with TPV is instructive. We implemented TPV in 1991 for our outbound
17 telemarketing sales. This resulted in a dramatic reduction in telemarketing
18 complaints--to the point where only a small fraction of one percent of all
19 telemarketing sales results in complaints of any type.
20
21

1 **Q. COULD YOU DESCRIBE MCI'S EXPERIENCE WITH THE**
2 **EFFECTIVENESS OF LOAs?**

3 **A. MCI initially used Third Party Verification for outbound telemarketing sales.**
4 **By early 1996, however, we found that sales channels where MCI gathered**
5 **LOAs--like door to door sales and face to face sales at events--were the**
6 **source of a disproportionately large percentage of MCI's disputes and**
7 **complaints. We noticed that while LOA-driven sales channels represented**
8 **less than 20% of our residential sales activity, these same sales methods**
9 **represented almost 50% of MCI's LEC-reported PIC disputes. We noticed**
10 **the same trends throughout the industry, as most of the major enforcement**
11 **actions revolved around direct sales, forged LOAs and other deceptive LOA**
12 **marketing.**

13
14
15 **Q. WHAT DID MCI DO AS A RESULT OF ITS RESEARCH ON LOAs?**

16 **A. Armed with these facts, MCI decided to make another major commitment to**
17 **its own sales quality efforts. Early in 1996, MCI committed both to the Florida**
18 **PSC and to the FCC that it would conduct TPV for virtually all its residential**
19 **and small business sales activities. By the fall of 1996, we were conducting**
20 **TPV for virtually all our sales. The results have been dramatic. We've seen**
21 **a substantial reduction of complaints from sales channels not previously**
22 **subject to independent verification. Overall, MCI's commitment to TPV**
23 **resulted in a year-over-year reduction of more than 50% in our complaint**

1 percentages. The bottom line is that MCI believes its commitment to TPV
2 has greatly improved our own sales quality and therefore has better protected
3 consumers.

4
5
6 **Q. TO WHAT DOES MCI ATTRIBUTE THE RECENT INCREASES IN**
7 **SLAMMING COMPLAINTS?**

8 **A.** The ever-expanding entry of new carriers, the increase in sheer volume of
9 carrier switches, and the advent of intraLATA equal access, certainly explains
10 some increased volume in incidence of slamming in the industry. MCI also
11 believes that consumers have benefitted from a great deal of information from
12 regulators and the media on slamming issues. Consumers now better
13 understand the process of switching carriers and their rights associated with
14 that process. Additionally, with the advent of intraLATA equal access and
15 local competition, LECs have a self-interest in mischaracterizing consumer
16 inquiries as "slams" or PIC disputes, thereby inflating the perceived problem.
17 But MCI is not perfect. One complaint is too many. We're still doing
18 whatever we can to improve our own sales quality. But given the fact that
19 millions of customers switch their residential service to MCI every year, it's
20 inevitable that some level of complaint activity will occur. We do believe that
21 TPV sets a standard that achieves a high level of consumer protection.

22

1 **Q. IS SLAMMING ASSOCIATED WITH TELEMARKETING?**

2 **A. Contrary to common perception, industry slamming problems are not**
3 **primarily related to telemarketing. Instead, the vast majority of reported**
4 **enforcement actions across the country have involved sales methods using**
5 **LOAs. The real problem areas have been forged LOAs, deceptive LOA**
6 **marketing techniques, sweepstakes LOAs, and deceptive check LOAs.**
7 **Getting it in writing is NOT the solution. In fact, its the primary problem, as**
8 **evidenced by consumer testimony from the public hearings of the**
9 **Commission.**

10

11

12 **Q. WHAT ARE MCI'S VIEWS ON A REQUIREMENT THAT TPV BE**
13 **TAPE RECORDED?**

14 **A. Though MCI recognizes that the Commission staff believes that taping of**
15 **TPV may enhance its efficacy, we want to point out that carriers will have to**
16 **invest many thousands of dollars in setup costs, the taping of the verification**
17 **conversation, subsequent storage of the recording, and retrieval upon**
18 **request. We think that TPV works well today without mandatory recording.**
19 **Part of the process involves obtaining a date of birth or SSN from the**
20 **customer to provide unique proof that the TPV representative actually talked**
21 **with the authorizing customer.**

22

1 While MCI believes any taping requirement should be national in scope, MCI
2 would support an investigation of the possibility that taping would balance
3 consumer needs with the added costs of implementation, maintenance and
4 retrieval of taped TPV calls.

5
6
7 **Q. WHAT ARE MCI'S VIEWS ON THE COMMISSION STAFF'S**
8 **PROPOSAL ON THE REQUIRED FORMAT FOR LOAs?**

9 **A. MCI believes that the Commission staff's requirements for LOAs as now**
10 **proposed are generally consistent with the FCC's formulation for LOAs,**
11 **which MCI supports. The rules propose language stating that the document,**
12 **"as a whole, must not be misleading or deceptive", and that the document**
13 **"must not be combined with inducements of any kind." We agree that**
14 **deceptive or misleading LOAs should be banned. However, we believe that**
15 **the LOA format should permit non-deceptive methods for customers to**
16 **confirm that they are signing up for particular carrier-offered programs--such**
17 **as frequent flyer partner programs--as part of the transaction. It is in this**
18 **context that the FCC adopts rules that require that "the LOA be a separate or**
19 **severable document whose sole purpose is to authorize a change in a**
20 **consumer's primary long distance carrier". In order to make partner offers**
21 **clear, for example, MCI makes the LOA "separable", but connected to, the**
22 **document specifying the number of frequent flyer points to be earned as a**
23 **consequence of signing up and using MCI's service. MCI believes that**

1 consumers actually have less protection if their authorization does not clearly
2 reflect the terms of their agreement to switch carriers.

3
4 MCI does take exception to the staff's proposal specifying that the type size
5 for certain disclosures must be of "at least as large as any other text on the
6 page, and located directly above the signature line". Many letters of agency
7 are cards or certificates, large enough to fit in a Number 10 envelope without
8 a fold. The disclosures required by the staff's proposal should comport with
9 the FCC's requirement that: "at a minimum, the letter of agency must be
10 printed with a sufficient size and readable type to be clearly legible and
11 contain" disclosure language that conforms precisely with the staff's proposed
12 language.

13
14
15 **Q. WHAT ARE MCI'S VIEWS ON THE PROPOSAL THAT REQUIRES**
16 **CONSUMERS TO BE CREDITED, FOR THE FIRST 90 DAYS, FOR**
17 **ALL CHARGES BILLED BY AN UNAUTHORIZED PROVIDER?**

18 **A.** MCI believes that this proposal would wreak hardship on consumers
19 and the industry, because dispute costs would rise to unmanageable
20 levels. A system which permits consumers to withhold all payment
21 from any carrier, though certainly a well-intentioned proposal, could
22 lead to a significant increase in the number of claimed unauthorized
23 conversions. MCI's experience has shown that a majority of the

1 changes that are challenged as unauthorized stem instead primarily
2 from communications breakdowns within a household, consumers
3 forgetting they authorized a switch, or buyers' remorse. In each of
4 these cases, there is no unauthorized switch, but it could wrongly be
5 treated as one. Unfortunately, just as there are companies in the
6 marketplace that search out and abuse loopholes in the rules with
7 regard to PIC changes, we can expect some consumers to do the
8 same.

9
10 The 1996 Telecommunications Reform Act clearly directs the FCC to
11 adopt rules that would require an unauthorized carrier to compensate
12 the authorized carrier "in an amount equal to all charges paid by" the
13 subscriber. Undoubtedly, one consequence of the Act and any
14 resulting FCC ruling will be a much sharper focus on the nature of any
15 given PIC dispute. It will obviously be in the interest of the alleged
16 "unauthorized carrier" to refute the charge of slamming by proving
17 that a legitimate verification of the sale occurred. Indeed, it will also
18 be in the interest of local carriers to hotly contest PIC disputes related
19 to the local or local toll service, for they stand to lose customers in the
20 new competitive environment.

21
22 The "unauthorized" carrier's incentive to prove that no violation
23 occurred will often, necessarily, involve the consumer as well as the

1 carrier in an investigation process that will add significantly to carriers'
2 costs. The "slammed" carrier will have an important self-interest as
3 well. IntraLATA and local PIC disputes will be further exacerbated by
4 the tensions created by the dual role of the LEC, as both service
5 provider and PIC dispute administrator.

6
7 The greater attention to the underlying causes of PIC disputes, then, will
8 undoubtedly end the current no fault PIC dispute process. All parties to PIC
9 disputes will have significant incentives to seek out the root cause of every
10 PIC dispute, a phenomenon which will not always keep consumers out of the
11 line of fire. Though the compensation Congress proscribed will add to
12 dispute costs, consumers will undoubtedly benefit from the incentive given to
13 slammed carriers to seek compensation for lost revenue. State commissions
14 and the FCC will have to stretch financial resources to strictly enforce
15 anti-slamming laws. Giving the authority to responsible carriers to seek
16 compensation when they are slammed further encourages the market to police
17 itself and will add significantly to enforcement of the law.

18
19
20 **Q. HOW DOES THE STAFF'S PROPOSAL COMPARE WITH**
21 **THE FCC'S NPRM?**

22 **A. The FCC is currently formulating a new rule in response to the**
23 **Congressional directive and will soon promulgate its requirements for**

1 managing liability for unauthorized PIC switches. We urge the
2 Florida Commission to establish rules compatible with the FCC's
3 formulation, which we believe will make consumers whole and deprive
4 the offending carrier of any remuneration for the slam. In its
5 comments to the FCC, MCI recommended that victims of an
6 unauthorized PIC conversion receive a refund for all charges paid to
7 the unauthorized carrier that exceed the amount they would have paid
8 to their carrier of choice. The unauthorized carrier would submit to
9 the authorized carrier an accounting of all revenues collected from the
10 slammed consumer, and would be obligated to refund to the carrier of
11 choice the total amount that the authorized carrier would have
12 charged for the same calls. Such an approach will also help deal with
13 the problems associated with premiums that the customer may have
14 lost as a result of the unauthorized conversion. (The FCC proposes
15 mandating refunds of premiums lost through slams). If the authorized
16 carrier is fully compensated for lost revenues, that carrier should be
17 required to make the consumer whole by awarding any premiums that
18 were lost as a direct result of the unauthorized PIC change.

19
20 MCI has also recommended to the FCC that it should support the
21 establishment of a third party PIC administrator, which would manage
22 PIC administration and dispute resolution. The local carrier self-

1 interest in PIC management and disputes completely undermines its
2 objectivity in managing the dispute process.
3
4

5 **Q. WHAT IS MCI'S POSITION ON THE STAFF'S PROPOSAL THAT**
6 **NAMES OF OTHER CARRIERS NOT BE MENTIONED DURING**
7 **TELEMARKETING?**

8 **A. MCI believes that carriers cannot be allowed to misrepresent who they are.**
9 **The Commission, however, cannot prevent carriers from making non-**
10 **misleading comparisons between their rates and service and those of their**
11 **competitors. It is unreasonable to attempt to restrain telemarketing**
12 **representatives from answering consumer questions and concerns that help**
13 **consumers make an informed choice. MCI believes that prohibiting truthful**
14 **comparisons would be an unreasonable restriction on free speech.**
15
16

17 **Q. WHAT ARE MCI'S VIEWS ON THE REQUIREMENT THAT**
18 **CUSTOMER BILLS INCLUDE THE CERTIFICATE NUMBER AS**
19 **PART OF PROPOSED RULES FOR BILLING FOR LOCAL**
20 **EXCHANGE TELECOMMUNICATIONS COMPANIES?**

21 **A. Section 25-4.110(10) requires customer bills to display the name of the**
22 **certificated company and its certificate number, the type of service provided**
23 **and a toll-free customer service number. MCI currently complies with all**

1 aspects of this proposed rule except the inclusion of its certificate number.
2 MCI absolutely agrees that the carrier's name and toll-free service number
3 should always be included on bills. However, we do not believe that adding
4 the certificate number would enhance consumer protection. We believe that
5 for consumers the certificate number is meaningless and irrelevant, and the
6 need to include the certificate number in complaints would be an additional
7 burden.

8
9 MCI, for example, uses account numbers to keep track of customer records,
10 but we do not ask consumers to provide that number to us when they call us
11 for it would only cause our customers frustration. Likewise, we do not
12 believe that Florida consumers would find the addition of a certificate number
13 at all useful. Furthermore, this requirement would add significantly to costs
14 for carriers, as MCI responded to the Commission in its financial impact
15 inquiry.

16
17
18 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

19 **A. Yes.**
20
21
22

1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **PREFILED REBUTTAL TESTIMONY OF JANE KING**

3 **ON BEHALF OF**

4 **MCI TELECOMMUNICATIONS CORPORATION**

5 **DOCKET NO. 970822-T1**

6 **January 15, 1998**

7

8 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

9 **A. My name is Jane M. King and my business address is 1200 South Hayes Street,**
10 **Arlington, Virginia 22202..**

11

12 **Q. HAVE YOU PREVIOUSLY FILED DIRECT TESTIMONY IN THIS**
13 **DOCKET?**

14 **A. Yes.**

15

16 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

17 **A. The purpose of my rebuttal testimony is to respond to the testimony of other parties**
18 **to this docket, principally the Office of Public Counsel, the Staff of the Commission,**
19 **and BellSouth. I also respond to the changes that the Commission has made to the**
20 **proposed rule since the draft that existed at the time my direct testimony was filed.**

21

22 **Q. WHAT DO YOU SEE AS THE DRIVER OF THE TESTIMONY FILED BY**
23 **THE COMMISSION STAFF AND PUBLIC COUNSEL?**

24 **A. The proposed amendments of the staff and Public Counsel are a reaction to the**
25 **anecdotal stories told to the Commission during the public hearings and information**

1 received by the staff in course of handling consumer complaints in Florida. What the
2 staff and Public Counsel have failed to recognize is the "silent majority" -- those
3 customers who successfully, easily and knowingly change their PIC and experience no
4 problems. This happens 99.95% of the time, according to MCI's experience on a
5 national basis. To radically change the Commission's rules for a process that is
6 basically not broken, but may be in need of tweaking or additional enforcement, leads
7 to unintended and unforeseen results. MCI believes that if adopted *in toto*, the
8 proposed amendments will not only thwart telecommunications competition, but also
9 inconvenience consumers and establish unnecessary barriers to free and flexible
10 choice.

11
12 **Q. WHAT LARGER ISSUE DO YOU SEE WHEN EXAMINING THE**
13 **PROPOSED AMENDMENTS BY STAFF AND PUBLIC COUNSEL?**

14 **A.** MCI understands that slamming is a serious problem in this industry. In recent years,
15 however, certain carriers have given consumers such a difficult time -- either through
16 charging exorbitant rates, or stonewalling consumers who complained about
17 slamming -- that all carriers are being subjected to proposals that would add
18 enormously to the costs of doing business. This is unfair to the carriers who make
19 every effort to comply with the Commission's rules and requirements. All the rules in
20 the world will not eliminate the problem if the offending carriers can operate for years
21 before their certificates are withdrawn and penalties are imposed.

22
23 It seems, however, that the Florida Commission, its staff and Public Counsel are
24 stepping up to this issue to ferret out the "bad actors." What MCI does not want to
25 see happen is that the Commission throws out the baby with the bath water and stifles

1 the legitimate marketing activities of responsible companies. This creates serious
2 business and competitive issues. Many of the additional proposals of the Public
3 Counsel and the staff have the strong potential to deny consumers in Florida easy
4 access to the carrier of their choice, while offering little in the way of additional
5 protections.

6
7 **Q. DOES MCI AGREE WITH THE TESTIMONY OF THE FLORIDA PUBLIC**
8 **COUNSEL?**

9 **A. MCI supports the Public Counsel's contention that stricter enforcement for fraudulent**
10 **PIC switches would vastly improve consumer experience with slamming in Florida.**
11 **However, MCI believes that it is extremely important that the Florida Commission**
12 **define "fraudulent" switches. MCI proposes that the definition include language**
13 **specifying that an unauthorized PIC switch, in order to be fraudulent, must result**
14 **from an intentional, knowing action by a carrier to switch the customer's service**
15 **without the customer's consent. As all of the carrier comments on this proceeding**
16 **make clear, some PIC disputes are to be expected, particularly in a highly**
17 **competitive, high churn industry, transacting millions of PIC changes each month**

18
19 **The Commission would be most effective if it dedicates its efforts to strict**
20 **enforcement of national rules (which are pending with the Federal Communications**
21 **Commission) and scrutinizes intensely those carriers whose PIC disputes betray**
22 **fraudulent practices. As the Commission staff and Public Counsel demonstrate, the**
23 **bad actors not only slam consumers but also make it nearly impossible for their**
24 **"customers" to reach them. This resistance to accountability should be viewed as**

1 another indicator of fraudulent practices. There are other proposals of the Public
2 Counsel, however, that MCI does not agree with

3
4 **Q. DOES MCI SUPPORT THE PUBLIC COUNSEL'S RECOMMENDATION**
5 **THAT ALL CARRIERS SUBMIT A MONTHLY SLAMMING**
6 **COMPLAINTS REPORT TO THE COMMISSION?**

7 **A.** No. MCI does not support this recommendation because many complaints about
8 "slamming", when investigated, prove not to be unauthorized switches. MCI knows
9 through many years of researching LEC-reported PIC disputes, and the results of a
10 recent survey in Florida, that LECs often record as slams calls to the LEC by
11 consumers expressing dissatisfaction with their PIC, a desire to switch carriers, or
12 other PIC-related issues that do not constitute slams. Furthermore, a more accurate
13 measure of slamming statistics must take into account the overall sales volume of
14 specific carriers, as is demonstrated by the Annual Report Card of the Federal
15 Communications Commission. (Attached as Rebuttal Exhibit JMK-3. Please see
16 page 24).

17
18 Additionally, the proposal creates another layer of unwieldy bureaucracy and
19 excessive reporting and use of resources for a task that will not directly deter
20 slamming.

21 However, MCI recommends that, should the Commission require reporting of
22 slamming complaints, the reports should be quarterly from information filed with each
23 carrier and not LEC-reported PIC disputes. This is another reason why slamming
24 should be defined in the Commission's rule

25

1 Q. **DOES MCI AGREE WITH THE PUBLIC COUNSEL'S FORMULATION OF**
2 **LEC RESPONSIBILITY FOR MANAGING CONSUMER COMPLAINTS**
3 **ABOUT SLAMMING?**

4 A. The Public Counsel's recommendations would lead to substantial abuses, both by
5 LECs and by a segment of the consumer population. In the current environment,
6 LECs have a much greater stake in the outcome of slamming complaints. LECs are
7 interested in fostering fear about change and establishing seemingly impenetrable
8 hurdles for consumers as a way of preserving intraLATA and eventually local
9 monopolies. LECs therefore should not be making determinations about the
10 legitimacy of slamming complaints. Particularly today in cases of intraLATA PIC
11 disputes, the LEC is an obviously interested party. At the appropriate time in the
12 future, BST will have a stake in the outcome of interLATA PIC disputes and other
13 LECs, such as GTE, have a stake in the outcome today.

14
15 Q. **WHAT ROLE SHOULD THE LEC HAVE IN A PIC DISPUTE, IF ANY?**

16 A. The LEC controls the switch, so upon consumer request, it must make the switch
17 back to the original carrier, but all else should be managed by the original, or
18 authorized carrier acting upon Commission rules governing the responsibility of the
19 slammed carrier. The LEC should not be in a position to resolve disputes involving
20 PIC changes, as many of its judgments will undoubtedly be biased.

21

22 The Commission, in protecting the consumer interest, needs to make sure that the
23 LEC properly administers the No-Fault tariff for PIC disputes. With the No-Fault
24 tariff in place, the disposition of PIC disputes should be coordinated by the carrier the

1 consumer wanted in the first place, the carrier from which the customer has been
2 slammed.

3

4 **Q. DOES MCI AGREE WITH THE 90-DAY, OR THREE BILLING CYCLE,
5 CHARGE BACK PROPOSAL OF THE PUBLIC COUNSEL AND STAFF?**

6 **A.** No. As stated above, many alleged slams are not slams at all. In cases where error or
7 household dispute or other problems occur, the 90-day chargeback would be entirely
8 inappropriate. Though consumers are understandably very upset when they receive a
9 bill from a carrier not of their choosing, the best outcome for them when they
10 discover an unauthorized switch is immediate restoration to their original carrier and
11 compensation for any charges in excess of those of their original carrier (re-rating of
12 the calls). This approach to PIC disputes reduces the tension they create by quick
13 resolution that makes the consumer whole. Furthermore, consumers should be
14 encouraged to monitor their bills for PIC switches, and to report any problems within
15 the first billing cycle, particularly because the Commission proposes the inclusion of a
16 bold-face disclosure of PIC switches on the front portion of invoices to alert
17 consumers of PIC switches. Consumers do have a responsibility in this process

18

19 The 90-day credit proposal, in essence, awards consumers for damages incurred for
20 alleged slams. Moreover, because of timing issues, the consumer benefit would be
21 arbitrary at best.

22

23 A more practical problem with the ninety-day (or three billing cycle) proposal is the
24 huge costs in administering disputes. In this context, a company accused of a slam

1 would forfeit all revenue unless it fights hard and proves that the install was actually
2 authorized. This scenario creates a very hostile environment for consumers.

3
4 MCI also objects to the proposal that consumers' bills should be re-rated (to the
5 rates of their original carriers) for charges for the nine months following the three-
6 month billing cycle, or 90 days. Consumers should be encouraged to monitor their
7 own accounts so that they will have clear control over managing their own choices.

8
9 The US Congress, in passing the Telecommunication Act of 1996, directs the Federal
10 Communications Commission to establish rules whereby the slamming carrier
11 remunerates the slammed carrier for lost revenues. This proposal makes sense,
12 because it recognizes that the slammed carrier is also the victim of slamming. It also
13 makes sense because it encourages carriers that are frequently slammed to take action
14 against the carriers guilty of the slams. Under this proposed requirement, carriers
15 will be assisting Commissions in policing themselves

16
17 Most important from the standpoint of protecting consumers, the Florida Commission
18 has the authority to enforce rules to protect consumers against slamming, to include
19 hefty fines. Both Florida's and the FCC's rules should ensure that consumers be made
20 whole for unauthorized switches, but crediting policies that do more than make
21 consumers whole encourage delay in reporting unauthorized switches, or worse,
22 outright consumer fraud. Ninety day chargebacks would encourage delayed reports
23 of unauthorized switches, discourage reasonable consumer vigilance, and completely
24 undermine the Commission's purpose in requiring notification on the first invoice
25 following a PIC switch that a switch has occurred.

1
2 MCI, AT&T and Sprint have, in public forums, acknowledged that some
3 unauthorized switches will occur, through error, no matter what anti-slaming
4 measures are adopted. MCI has noted that, in its own experience, a majority of so-
5 called slams are not slams at all, but are PIC disputes occurring for a variety of
6 reasons, such as changed minds, household disputes and similar reasons. It is
7 extremely important that the Commission distinguish, in its rules, between PIC
8 disputes and slamming.

9
10 **Q. DOES MCI AGREE WITH STAFF TESTIMONY WHICH STATES THAT**
11 **THE CURRENT RULE, REQUIRING A COMPANY WHICH HAS**
12 **SLAMMED A CONSUMER TO RERATE THE CUSTOMER'S CALLS TO**
13 **THE RATES OF THE PREFERRED CARRIER, IS INEFFECTIVE?**

14 **A.** MCI does not agree with the staff's proposed solution that all charges by a slamming
15 carrier should be forgiven. We understand that consumers support the concept of
16 forgiveness of all charges and that they are inconvenienced by incidents of
17 unauthorized switches. However, MCI believes that the approach that works best
18 for consumers is to make sure they are made whole and do not become pawns in a
19 dispute process involving the LECs, the slamming carrier and the slammed carrier.

20
21 For at this time, in this industry, the "switch administrator, and the recorder of
22 disputes", are LECs, whose self-interest in the outcome of disputes is clear. MCI
23 supports the creation of a third party "PIC Administrator" which would oversee the
24 PIC change and dispute management process. Until such an organization is created,

1 consumers become the victims of the dispute process itself unless the dispute is
2 focused properly.

3
4 For this reason, MCI believes that the best formulation for managing the PIC dispute
5 process has been set forth by the Telecommunications Act of 1996. The Act directs
6 the FCC to create rules that dictate that the slamming carrier refund to the slammed
7 carrier all revenues it collected by virtue of a "slam". This formulation gives a strong
8 incentive to the slammed carrier to go after the slamming carrier for lost revenue, but
9 it does not cause the slammed consumer to be caught in the middle of the dispute.
10 The Act's requirements are ingenious in creating a self-disciplining mechanism for
11 curtailing slams.

12
13 **Q. DOES MCI SUPPORT THE PUBLIC COUNSEL'S RECOMMENDATION**
14 **THAT PIC CHANGES BE IMPLEMENTED ONLY AFTER WRITTEN**
15 **NOTIFICATION HAS BEEN SENT BY THE NEW CARRIER TO THE NEW**
16 **CUSTOMER THAT THE SWITCH WILL OCCUR?**

17 **A.** No. This scheme would impose a unnecessary bureaucratic burden. MCI believes
18 that imposition of this requirement would add enormously to the costs of doing
19 business in Florida. Public Counsel is advocating a "belt and suspenders" approach to
20 PIC changes which would impact customer expectations in a negative way. Indeed,
21 today a PIC change can be accomplished within 24 hours and consumers have come
22 to expect and demand very quick installations so that they can take advantage of
23 special promotions and low rates.

24

1 The costs might be acceptable if the results warranted such measures, but we do not
2 believe that slowing down installation would prevent serious incidents of slamming.
3 In fact, any measures that make consumers uncertain about timing of installation adds
4 to consumer confusion. All responsible carriers do mail a confirmation package as
5 soon after the sale as possible. This mailing helps to limit the consequence of
6 erroneous switches, because the consumer is put on notice that the switch has
7 occurred. Written notifications, however, are not a panacea. Consumers tend to
8 read hastily, or set aside for later reading, fulfillment packages or other notifications.

9
10 If the Public Counsel's recommendation were made law, MCI's sales scripts would
11 need to be changed specifically for the Florida market so that we could explain the
12 delay in installation to new customers. This would require new systems development
13 and training of sales and customer service representatives. Once the order is
14 processed, we would have to modify our fulfillment stream. Today, a fulfillment
15 package is generated once the order is installed. Since we would be holding the
16 orders, we would need to develop an entirely different process for fulfillment. Either
17 holding the order or sending it through, we would have to develop state-specific
18 fulfillment packages.

19
20 MCI currently mails, within the week following the sale, a package welcoming our
21 new customer and explaining all the terms and conditions applicable to the plan to
22 which the customer subscribed. If the customer receives this and does not wish to
23 continue with MCI, or feels that the switch occurred in error, the customer could
24 switch back to the original carrier without additional cost. This practice should

1 should be required of all carriers, in lieu of requiring orders of installation to be
2 delayed.

3

4 **Q. DOES MCI AGREE WITH THE COMMISSION PROPOSAL THAT**
5 **FLORIDA CONSUMERS MUST BE NOTIFIED BY "THE PROVIDER" ON**
6 **THE FIRST BILL AND THEREAFTER ANNUALLY ABOUT PIC FREEZES**
7 **AND THAT THOSE SEEKING PIC FREEZES SHOULD BE REQUIRED TO**
8 **USE FORM PSC/CAF 2?**

9 **A.** Though MCI recognizes that PIC freezes can be a useful device, it urges the
10 Commission to recognize their severe anti-competitive impact. MCI has found that
11 consumers often do not understand completely that PIC freezes can thwart their own
12 desire to switch carriers in the future. MCI believes that PIC freezes should be
13 releasable by a phone call to the LEC from consumers who requested the freeze, and
14 that third party verification should be accepted as an automatic override for the PIC
15 subject to the TPV.
16 (The language in the Commission's proposed rule (Section (12)) is unclear. The only
17 "provider" that can institute the freeze is the local facilities-based carrier, the carrier
18 that controls the switch)

19

20 **Q. DOES MCI AGREE WITH THE PUBLIC COUNSEL'S**
21 **RECOMMENDATION THAT LEC'S DISASSOCIATE BILLING FOR**
22 **UNAUTHORIZED CHARGES OR UNAUTHORIZED SWITCHES FROM**
23 **THE REGULAR BILL?**

24 **A.** In the case of unauthorized billing, it is appropriate for the LEC to "disassociate"
25 billing for unregulated services. However, this action should not be taken for billing

1 for tariffed toll services provided by a regulated carrier. A host of legitimate
2 services are billed by the LECs for "casual" or non-PIC'd services. Such MCI
3 services as 1-800-COLLECT would not be billable for Floridians who had blocked
4 billing, and MCI would have no way of knowing the consumer is blocked or of
5 collecting the PIN number. The systems for casual billing are complex, and were put
6 into place to enhance competition. If Florida's Commission is serious about stopping
7 "cramming" by allowing consumers to block billing to third parties, the blocking must
8 be targeted to non-tariffed, non-regulated services.

9
10 The suspension of regular billing when a consumer claims that a switch is
11 unauthorized should occur only if the consumer makes a report of the unauthorized
12 switch immediately or shortly after receiving the first invoice from the "unauthorized"
13 carrier. The very sound proposal by the Commission that the LEC show in bold
14 faced type that the PIC switch has occurred should make it possible for consumers to
15 pay close attention to incidents of slamming and report them immediately.

16
17 When the consumer calls the LEC with a slamming complaint, the LEC is required to
18 restore the consumer to the original carrier and charge the PIC change fee to the
19 "offending" carrier. The minute the change occurs, billing by the slamming carrier
20 will cease. However, some charges of the alleged slamming carrier may be in the
21 pipeline, and will thus be billed by the LEC and received by the consumer. Collection
22 efforts should be suspended until the PIC dispute is resolved. If the "slamming"
23 carrier has adequate evidence of confirmation of the sale, the consumer should then
24 be required to pay that carrier in full. If, on the other hand, no evidence of valid
25 confirmation is provided, the consumer's invoice should be re-rated to the charges of

1 the original carrier. In either case, the consumer should pay the carrier against which
2 the complaint was filed. The offending carrier, if the slam is not disproved, will need
3 to refund all revenues obtained via the slam to the original carrier

4
5 **Q. DOES MCI AGREE WITH BELLSOUTH'S CONTENTION THAT ADDING**
6 **THE CERTIFICATE NUMBER AND TYPE OF SERVICE ON THE BILL**
7 **WOULD NOT HELP CONSUMERS?**

8 **A.** MCI concurs with BellSouth's views on this proposed requirement. As we stated in
9 our testimony, we do not believe that this requirement would be helpful to consumers,
10 and it might confuse them. BellSouth is correct in that the customer's attention
11 should be brought to PIC changes in the first bill following the switch, and we
12 support BellSouth's efforts to make this notification even more prominent. MCI does
13 not object to BellSouth's recommendation that the 700 numbers to verify the identity
14 of consumers' current carries be included on local telephone bills each month

15
16 **Q. DOES MCI CONCUR WITH BELLSOUTH'S VIEWS ON THE USE OF**
17 **LOAS?**

18 **A.** We agree that archiving LOAs is labor-intensive and retrieving them is even more so
19 As MCI pointed out in its testimony, LOAs are also very vulnerable to scam tactics

20
21 **Q. DOES MCI HAVE ANYTHING TO ADD TO BELLSOUTH'S DISCUSSION**
22 **OF COST ESTIMATES FOR THIRD PARTY VERIFICATION?**

23 **A.** Yes. We hope that the Commission looks seriously at BellSouth's cost estimates for
24 TPV, because they support MCI's argument that TPV is the most efficient form of
25 verification. BellSouth's estimates show that TPV does not impose the huge costs

1 that taping would impose. MCI certainly understands that there is no fool-proof
2 verification method, and third party verification, as have all verification methods, has
3 been subject to abuse. Carriers should have to prove that their third party verifiers
4 are completely independent, reputable companies which are contractually obligated to
5 observe high verification standards.

7 **Q. DOES MCI AGREE WITH BELLSOUTH THAT INBOUND VERIFICATION**
8 **SHOULD BE ELIMINATED?**

9 A. No. Inbound verification works as effectively to curtail slamming as outbound
10 verification by disciplining advertising, the sales process, and giving consumers the
11 opportunity to understand that they are making a carrier change.

12
13 ~~**Q. DOES MCI AGREE WITH THE PROPOSED AMENDMENT BY STAFF**~~
14 ~~**THAT WOULD REQUIRE THE LEC'S TO OFFER A BLOCK TO PROTECT**~~
15 ~~**AGAINST THIRD PARTY BILLING ON LEC INVOICES?**~~

16 ~~A. MCI considers this proposal to be objectionable in the extreme unless it is revised to~~
17 ~~allow a block only against third party billing for non-tariffed, non-regulated, non-toll~~
18 ~~charges. As the proposal reads now, it would severely impede national billing~~
19 ~~processes that have been in place since deregulation. (Please see above discussion on~~
20 ~~suspension of billing) Consumers make millions of dialaround (10XXX, 800 and~~
21 ~~950) and collect calls every day. It is extremely important that the Commission~~
22 ~~clearly specify that charges for legitimate "casual" calls must not be blockable for~~
23 ~~billing purposes.~~

24

1 **Q. DOES MCI AGREE WITH THE PROPOSAL THAT THE PSC SHOULD**
2 **REQUIRE LECS, ALECS AND IXCS TO INCLUDE THE LAST NAME,**
3 **ADDRESS AND TELEPHONE NUMBER IN THE TRANSMITTAL ORDERS**
4 **INVOLVING CARRIER CHANGES AND THAT LECS SHOULD REJECT**
5 **ORDERS FOR CARRIER CHANGES WHEN THE ORIGINATING**
6 **CARRIER FAILS TO PROVIDE A MATCH WITH THE LEC'S RECORDS.**

7 **A.** No, MCI does not agree with this proposal. MCI research shows that when MCI
8 instituted an address edit procedure with BellSouth, our record for unauthorized sales
9 neither increased or decreased. In other words, the edit procedure had no material
10 effect on sales quality. For MCI's sales of long distance service, the name and
11 address records are for the purpose of billing long distance services. We do not
12 require the service address, and we often take long distance orders from a different
13 person in the household than the person who may be listed by the LEC. This does not
14 mean it is not a valid order, as more than one person in a household can be a
15 decisionmaker in terms of making carrier selections, just as the customer on the LEC
16 records may not be the customer that pays the telephone bill. It is not the LEC's job
17 to determine the validity of MCI orders, and verification processes are in place to
18 make sure that the name and address MCI collects is valid for the affected ANI

19
20 The LECs cannot be expected to know with any certainty the exact name (nickname,
21 husband or wife, roommate, etc.) of those qualified to change long distance or
22 intraLATA service. The LEC's records cannot and should not be viewed as the
23 definitive source for determining who in a household has the authority to make a
24 carrier switch. In fact, this requirement creates a conflict of interest for the LEC

25

1 For local service, the service addresses do have to match, and our orders are rejected
2 today if they do not. We cannot ask for a line to be migrated to us without the
3 correct service address, as this could impact customer dialtone (more critical than
4 long distance PIC) and E911 and directory listings.

5
6 **Q. DOES MCI AGREE THAT THE UNDERLYING CARRIER'S NAME**
7 **SHOULD BE INCLUDED ON BILLS FOR PAY-PER-CALL CHARGES?**

8 **A.** Providing the name of the IXC providing the pay-per-call service is not helpful to
9 consumers if the LEC is the billing party. More important for resolving any dispute
10 would be the name of the Information Service Provider. The IXC that provided the
11 network access to the Information Service Provider would not be involved in
12 resolving a billing dispute unless it also billed and collected for the information
13 service.

14
15 **Q. DOES MCI AGREE WITH THE NEW SUBSECTION (13) THAT REQUIRES**
16 **A BOLD-FACED NOTICE ON THE FIRST OR SECOND PAGE OF A**
17 **CUSTOMER'S FIRST BILL FOLLOWING A CHANGE IN HIS LOCAL,**
18 **INTRALATA OR INTERLATA CARRIER?**

19 **A.** MCI supports this proposal. If this proposal is approved, it should obviate the need
20 for crediting all charges for 90 days or longer for unauthorized switches unless a
21 carrier has refused to act to remedy an unauthorized switch. Consumers need to be
22 encouraged to monitor their telephone bills on a monthly basis, and to react as soon
23 as possible if they see that they have to been switched to a carrier without their
24 choosing to do so.

25

1 In fact, the Commission would encourage responsive carrier behavior if they create an
2 incentive for quick resolution of PIC disputes. Carriers that prolong resolution of
3 PIC disputes, or gouge consumers while they are subject to an unauthorized switch
4 could, by Commission direction, be subject to stricter fines

5
6 **Q. DOES MCI AGREE WITH THE COMMISSION PROPOSAL THAT**
7 **CUSTOMERS MUST BE INFORMED, DURING TELEMARKETING AND**
8 **VERIFICATION, THAT A PIC FREEZE IS AVAILABLE?**

9 **A.** No, MCI does not understand the purpose for this proposal, and considers it
10 potentially a significant detriment to a competitive environment. PIC freezes can be
11 useful, particularly to reassure consumers who have been slammed, but a constant
12 reiteration of their availability will persuade consumers that it is somehow foolhardy
13 not to have all PICs frozen. It is especially puzzling that the Commission would
14 suggest that a telemarketer would be the appropriate party for giving this notice. If
15 he or she is discussing the current services a company offers, the mention of a PIC
16 freeze does not seem germane to the conversation and would likely be very confusing.
17 Indeed, the carrier for whom the telemarketer is acting, does not have the
18 wherewithal to affect the PIC freeze unless the consumer decides to switch to that
19 carrier and the carrier provides the appropriate form or telephone number. Moreover,
20 without a more "customer-friendly" way of releasing a PIC freeze, MCI does not
21 advocate PIC freezes as the appropriate solution for all consumers.

22
23 **Q. DOES MCI SUPPORT THE ADDITION TO SECTION 25-4.118 THAT SETS**
24 **FORTH REQUIREMENTS FOR CALL HANDLING AND CUSTOMER**
25 **SERVICE RESPONSE?**

1 A. No As a national company, MCI cannot obligate itself to the standards set forth in
2 this proposal. Though MCI does provide customer service 24 hours a day, seven
3 days a week, it is subject to the ebbs and flows of a national company handling
4 5,000,000 customer service calls a month in a cost-efficient and expeditious manner
5 MCI makes every effort to handle calls promptly In the non-monopoly environment
6 characteristic of the long distance industry, consumers may and do switch all the time
7 based on the quality of the service they receive MCI respectfully recommends that
8 the Commission delete the language in this section MCI does, however, recognize
9 the importance of standards for network operations and customer service for local
10 services, which can have serious consequences for consumers

11

12 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

13 A. Yes, it does

14

15

16

17

18

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24

25

1 Q (By Ms. Ward) Ms. King do you have a
2 summary of your testimony.

3 A I do.

4 Q Could you give it, please?

5 A During my summary I would like to highlight
6 six areas in the proposed rules and the testimony of
7 other parties that are of most concern to MCI.

8 First: MCI is pleased that the Commission
9 supports the use of third-party verification as a
10 method to confirm sales and urges the Commissioners to
11 consider making third-party verification mandatory.

12 MCI now conducts TPV for virtually all
13 sales, and we've seen a substantial reduction of
14 complaints from sales channels not previously subject
15 to independent verification.

16 Our research shows that with increased
17 third-party verification for sales in Florida, a
18 slamming complaint directed to the Commission in 1997
19 occurred only once for every 90,000 MCI sales calls,
20 and many of that number are not genuine slams, but are
21 attributable to household or business disputes, error,
22 or occasionally consumer misunderstanding.

23 Second: MCI must take strong issue with the
24 proposals that treat PIC freezes as the panacea to
25 prevent slamming. PIC freezes are completely

1 anticompetitive. LECs encourage their use because
2 they preserve the status quo and, indeed, their
3 widespread use could freeze the marketplace.

4 Moreover, PIC freezes are often
5 misunderstood by consumers. MCI finds in its own
6 sales process that consumers often do not even know
7 that they have a PIC freeze and that it can only be
8 released by the LEC.

9 Consumers assume that if they give their
10 consent to MCI to switch to MCI, MCI can get the PIC
11 freeze released. This would not be the case under the
12 proposed rules. MCI believes that a consumer's choice
13 to switch carriers that has subsequently been
14 third-party verified must be accepted as evidence that
15 a PIC freeze has been overridden by consumer choice.

16 Third: The proposed rule requiring that the
17 name and address of the new customer must match the
18 data of the local carrier gives an elevated status to
19 LEC data. MCI obtains its information about
20 prospective customers from a variety of sources and is
21 specifically prohibited from using the billing name
22 and address of local carriers for marketing purposes.

23 MCI does not believe that it is appropriate
24 to assume that local carrier data prevails over the
25 long distance data that has been verified between the

1 customer and the long distance company. Should the
2 Commission require the name and address match, many
3 customer orders would be unnecessarily stalled because
4 of mismatches that have absolutely no bearing on the
5 validity of the sale; for example, a slightly
6 different spelling of a street name. Customer
7 expectation for quick and easy installation would not
8 be met.

9 Fourth: I would like to express in the
10 strongest possible terms MCI's opposition to the
11 Commission's proposal for a 90-day charge-back for
12 unauthorized switches. The term "unauthorized" is not
13 defined, a lack which leaves an incredibly large
14 loophole for so draconian a measure.

15 A 90-day credit does not encourage
16 reasonable consumer attention to information on their
17 bills. In MCI's view, the 90-day charge-back creates
18 an incentive for consumer fraud, establishes a totally
19 arbitrary form of punitive damages, encourages delay
20 in reporting PIC disputes and, to the detriment of
21 consumers, creates a very contentious environment for
22 dealing with PIC disputes.

23 Instead of the current no fault approach,
24 carriers would be forced to do detailed research on
25 each and every PIC dispute and would too often end up

1 challenging consumers and unavoidably creating an
2 adversarial relationship with those consumers
3 affected.

4 Public Counsel and the Commission Staff
5 stress that their 90-day charge-back proposals
6 resulted from their concern for consumers who had to
7 spend hours of their time resolving their slamming
8 problem.

9 Slamming is so upsetting to consumers for
10 many reasons, but two stand out. Consumers don't know
11 how it happens and often don't know how to handle a
12 slam. If their problem is handled immediately and
13 fairly, their request for an explanation receive an
14 appropriate response, and all subsequent billing and
15 rerating is managed expeditiously, the punitive
16 damages contemplated by the Commission's proposal
17 would not be necessary.

18 MCI does support the proposed rules
19 requirement for inclusion of a boldface disclosure of
20 PIC switches on the front portion of invoices to alert
21 consumers of PIC switches. This kind of notice would
22 encourage consumers to take prompt action when they
23 see that they have been switched from their carrier of
24 choice.

25 Fifth: MCI cannot support the Staff

1 proposal to require long distance companies to adhere
2 to the customer service answer time required of LECs.
3 MCI's call volumes, unlike those of LECs, are subject
4 to extreme fluctuations resulting from the many
5 activities in a competitive market.

6 If MCI introduces, for example, five-cent
7 Sundays, many of our own customers call to find out
8 about the new calling plan. If a competitor sends out
9 a slew of checks, MCI receives a huge volume of calls
10 from our own customers asking for a match. All of
11 these activities benefit our own customers, but they
12 can make it impossible to respond to calls within 30
13 seconds.

14 Ultimately, competition will police the
15 marketplace. MCI absolutely recognizes the need for
16 accountability and does offer an 800 number to
17 customer service centers 24 hours a day, seven days a
18 week.

19 Sixth: MCI opposes the proposal of Public
20 Counsel that would require carriers to mail in
21 notification to consumers that a PIC switch is being
22 made following verification. Today a PIC change can
23 be accomplished within 24 hours, and consumers have
24 come to expect and even demand quick installations.
25 Many consumers call MCI on Saturday, for example, in

1 expectation that they can be switched in time to take
2 advantage of their five-cent Sunday.

3 In closing, I would like to make a comment
4 influenced by work in managing consumer affairs for
5 MCI. When I see an MCI complaint involving a PIC
6 dispute, I do not often find that its cause is
7 overzealous sales, but instead is some form of error
8 or a change of mind.

9 We all need to come to reasonable terms for
10 distinguishing an acceptable level of inevitable
11 unauthorized switches from willful, intentional
12 slamming. It is in the interest of legitimate
13 carriers that mistakes be corrected as soon as
14 possible and that consumers be helped to understand
15 some very basic steps that they can take to protect
16 themselves.

17 Linda Goladner (phonetic), the president of
18 the National Consumers League said that she, in
19 quotes, "First thing any consumer should do who wishes
20 to prevent slamming is to check his or her phone bill
21 each month." Consumers would then be empowered and
22 more in control if they assume some responsibility
23 for checking their bills, telephone bills, each month
24 and promptly reporting any problems as they most
25 assuredly do for credit card bills.

1 Thank you.

2 MS. WARD: Madam Chairman, Ms. King is
3 available for cross-examination.

4 CHAIRMAN JOHNSON: Okay. Mr. Marks.

5 CROSS EXAMINATION

6 BY MR. MARKS:

7 Q I've just got one question, Ms. King. In
8 your summary you express some fairly strong concerns
9 about the 90-day rule and providing service for that.
10 Do you have any specific changes that you would make
11 or consider with regards to the rule itself?

12 A The one thing that we suggest in here is
13 that if the complaint is resolved quickly,
14 expeditiously and fairly, that that could go into
15 effect in lieu of the 90-day charge-back.

16 I think we heard today that the LEC can make
17 that switch or switch back to the original carrier in
18 most cases within 24 hours, which would be
19 appropriate; and then something on the order of an
20 arrangement that would allow the carrier and the
21 consumer to take care of all such things as credit for
22 the PIC switch fee, for rerates and so forth within a
23 45-day window.

24 And that 45 days might sound like a long
25 time, but because of the billing cycles, if the switch

1 is reported late in a billing cycle, it would take
2 that long to catch up with it. But I think something
3 like that might well be appropriate just to make sure
4 that efficiency and fairness are the key words.

5 MR. MARKS: I don't think I have anything
6 else.

7 CHAIRMAN JOHNSON: Mr. Beck?

8 CROSS EXAMINATION

9 BY MR. BECK:

10 Q Ms. King, how many of the 10 customer
11 workshops did you attend in this proceeding?

12 A I was not able to attend any, although I
13 know an MCI representative was at all of them.

14 Q Did you listen to any of them on the
15 Internet?

16 A I was not able to, no.

17 Q Did you check the Commission's web page to
18 be able to listen to them after the fact?

19 A I was not able to do that.

20 Q And did you read the transcripts of the
21 proceeding?

22 A Some of it.

23 Q Which ones did you read?

24 A I can't recall. I have been reading some of
25 it throughout the last two and three months.

1 Q On Page 1 of your rebuttal testimony -- do
2 you have that there?

3 A Yes.

4 Q Starting on Line 24 you state that the
5 proposed amendments of the Staff and the Public
6 Counsel are a reaction to the anecdotal stories told
7 to the Commission during the public hearings.

8 Do you intend to use the term "anecdotal" in
9 a pejorative sense?

10 A No. No, we do not.

11 Q In what sense do you mean anecdotal?

12 A Anecdotal in the sense of meaning an
13 individual's report. Not -- in other words, it is not
14 a survey of thousands of consumers, it's specific
15 reports from individuals. It is not pejorative and
16 not intended to be so.

17 Q In your review of the proceedings to the
18 extent that you read the transcripts, how many times
19 did you notice customers complaining about having PIC
20 freezes on their lines that they weren't aware of?

21 A The reason that we say that is because in
22 our sales -- the only evidence I would have of that is
23 in our sales process. We cannot see from information
24 that we have whether a PIC freeze has been imposed at
25 the LEC.

1 Many people go through the sales process and
2 third-party verification and do not realize that the
3 PIC freeze is not overridden by that process. That's
4 what our evidence is in this case.

5 Q So would your answer to my question be that
6 you know of no instances in the hearings that were
7 held --

8 A No, I do not.

9 Q -- where customers complained about it?

10 A No.

11 Q On Page 4 of your rebuttal testimony you
12 object in general to providing any reports about
13 slamming to the Commission, do you not?

14 A We do not object to it if it came from the
15 carrier. The reason we would object to it being
16 reported by the LECs is what has been specified here,
17 that PIC -- I think in two different individuals'
18 testimony, that PIC disputes really do not reflect
19 with any accuracy whatsoever any kind of numbers of
20 authorized switches.

21 Q So you have no objection to providing
22 quarterly reports from MCI?

23 A No. That's right.

24 Q On Page 5 of your rebuttal testimony
25 beginning at the top where you were asked Public

1 Counsel's formulation of LEC responsibility for
2 managing consumer complaints about slamming, do you
3 see that?

4 A Yes.

5 Q What specific proposal are you referring to
6 in that question?

7 A I think in general there it was simply the
8 LEC responsibility which exists in our contracts to
9 record and take complaints from consumers and then the
10 treatment of them as PIC disputes.

11 Q Are you just referring to the complaints
12 being taken by LECs?

13 A Yes. Yes. In other words, the general
14 contention of the testimony is a strong preference for
15 the LECs to be removed from this process as much as
16 possible. However, let me say that we are very much
17 in support of the no fault tariff and the expedited
18 method.

19 MR. BECK: Thank you, Ms. King. That's all
20 I have.

21 MS. CASWELL: Chairman, Johnson, I did have
22 a few questions, if I could go before Staff.

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CROSS EXAMINATION1
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BY MS. CASWELL:

Q Ms. King, my name is Kim Caswell. I'm with GTE.

I want to go back to something you said in your summary, and I think that was that PIC freezes are totally anticompetitive and that the LECs had encouraged their use, as you put it, as an anticompetitive tool. Were you here for the testimony of Mike Scobie of GTE?

A Yes.

Q Did you hear his discussion with Ms. Caldwell about GTE's practices relative to PIC freezes?

A (Witness nodding head.)

Q If I could just sort of recap that, when a customer calls in and says he's been slammed, GTE changes them back, and at that time we offer him a PIC freeze. Do you think that practice is anticompetitive?

A I don't think in that circumstance it would be.

Q Do you have any other evidence of anticompetitive behavior with regard to PIC freezes on GTE's part?

1 A Not on GTE's part.

2 Q On any carrier's part in Florida?

3 A Not in Florida. This is a trend we have
4 seen in the industry, but not here specifically.

5 Q And I think I just heard you say that you
6 support the no fault --

7 A Yes.

8 Q -- tariff. Then I'm not sure about some of
9 the language in your testimony. I think particularly
10 at Page 5 of your direct testimony at the top, Line 2,
11 it says "The no fault tariff has one huge and obvious
12 flaw, and that's that the local carrier does not have
13 any requirement to research the cause of the dispute."

14 How is that consistent with your support of
15 the no fault tariff?

16 A I think what I should clarify there is that
17 it becomes a flaw in reporting of unauthorized
18 switches. It's a flaw that exists in the information
19 that is provided when the LECs provide the total
20 picture of PIC disputes.

21 Q And I assume you have seen a PIC dispute
22 report, correct?

23 A Yes.

24 Q And what information appears on the report
25 and how are the headings represented?

1 A I'm sorry. I have seen PIC disputes at MCI,
2 but they are MCI data. I have not ever seen, I don't
3 believe, a raw PIC dispute report.

4 Q Okay. Is it your understanding that a PIC
5 dispute report will characterize PIC disputes as
6 slams?

7 A We have had that experience in many
8 situations, that the PIC dispute reports are viewed as
9 slams. Exactly how it is relevant in terms of GTE
10 reporting, I cannot specify that.

11 Q So you can't say if GTE records PIC disputes
12 as slams on the reports?

13 A Right.

14 Q Can you say that for any carrier in Florida?
15 Do you have any idea whether --

16 A I cannot say that for Florida. Again, we
17 have seen in several states that, because the term PIC
18 dispute is very commonly used, that especially public
19 officials, legislators and so forth, might view that
20 data as indicative of, in quotes, "slams".

21 Q So that's not a criticism of the ILEC per --

22 A No, not --

23 Q So that your testimony about the LECs,
24 quote, "self-interest in mischaracterizing consumer
25 inquiries as slams" is not, in fact, well-founded with

1 regard to GTE in particular and, by extension, with
2 regard to Florida as well?

3 A Yes; although as I said, again this has been
4 characteristic of the industry as a whole.

5 Q I'm a little unclear about your
6 recommendation as to a third-party PIC administrator.
7 Are you recommending to this Commission that they
8 institute a third-party PIC administrator?

9 A No. No. That would have to be done on a
10 national basis.

11 MS. CASWELL: Okay. Thank you. That's all
12 I've got.

13 CROSS EXAMINATION

14 BY MS. CALDWELL:

15 Q Ms. King, I'm Diana Caldwell with the
16 Commission.

17 Could you tell me what is your company's
18 policy when it telemarkets potential customers and
19 when the person who is asked for is unavailable?

20 A I think that they would then ask if there is
21 another member of the household who is authorized to
22 deal with long distance service.

23 Q Do you believe that anyone other than the
24 customer of record should have the authorization to
25 change the service?

1 A Yes.

2 Q Is it your company's policy, do you at
3 least -- I mean, do you find out whether the person is
4 of age, like over 18?

5 A Yes. Yes. In fact, we ask two questions
6 during third-party verification. One is "Are you a
7 decision maker in the household," and "Are you over
8 18." We are trying to assess -- and make sure that we
9 do not sell to any minors in the household.

10 Q Are there any other procedures that you
11 might follow, I mean, if they're over 18, and let's
12 say if it's a guest, do you ask further questions --

13 A I think the important question there is "Are
14 you a decision maker in the household entitled to make
15 a switch in long distance service?"

16 Q Okay. Do you believe that companies
17 contacting customers for the purpose of changing their
18 service should obtain authorization from the customer
19 of record on file with the LEC?

20 A No. I think, as I mentioned in my
21 testimony, we do not have the billing name and address
22 for marketing purposes; and we do strongly believe
23 that spouses or other adult members of the household
24 should be able to take care of that transaction.

25 Q Do you have access to that information

1 during the verification process; their telephone
2 number, their address?

3 A We have the -- the verifier is provided the
4 name, address, and phone number that has gone through
5 the telemarketing process.

6 Q What is your company's policy when a
7 customer is on a grandfather plan, is slammed, and
8 wants to be put back on the plan?

9 A If at all possible, we would put that person
10 back on the plan. There might be rare instances
11 especially if the person were, as we say it, slammed
12 away for a number of months, that it would be
13 systematically impossible to put that person on the
14 plan, but we would try to give them certainly
15 equivalent benefits.

16 Q Can you describe your current procedures
17 when a customer claims your company is slammed?

18 A Our current procedures if they called MCI?

19 Q Yes.

20 A If a customer -- we would direct them
21 first -- we would explain that we would be
22 disconnecting service or -- yes, disconnecting even
23 though we can't do that at that switch, but that we
24 make sure that they understand that they should call
25 their local carrier to make sure that the switch is

1 completed; and we do refund -- we do provide credit
2 for the PIC switch fee.

3 Q Do you then ask them if they need to be
4 rerated or anything?

5 A We do not ask them in most cases, but we
6 will rerate if the customer asks for it.

7 Q So they have to know to ask for it?

8 A Yes.

9 COMMISSIONER GARCIA: While Ms. Caldwell
10 prepares the next question, I want to go back to a
11 question you were just asked about -- and in
12 particular, if I remember correctly, your company was
13 mentioned by very loyal customers, customers who said,
14 you know, I was the first friend in the family, or
15 whatever they -- and they had been with your company
16 for 10 years, or something like that, and someone had
17 slammed them; and they said they couldn't get back to
18 that program.

19 I don't know what that program was, because
20 I wasn't in the family, but is there a procedure in
21 place to try to -- because for some reason, and I
22 guess it's a tribute to good marketing and apparently
23 good service that your company gives, your customers
24 feel especially hurt.

25 And I'm sure Mr. Beck would probably even be

1 able to cite to it, but there were two or three at
2 least that said that, you know, they had lost their
3 status with MCI and it dated back to a long time ago.
4 What exactly do you do in those cases?

5 **WITNESS KING:** In those cases they certainly
6 should be offered something that is as close to an
7 equivalent that is possible. What does happen in
8 certain circumstances -- and I would have to look at
9 the specific areas -- that by the time the person gets
10 asked -- gets back to us, we are not able to place an
11 order that would put them back on a plan that no
12 longer exists.

13 That would be what we at MCI call a systems
14 problem. We could not fairly bill them in the manner
15 in which they had formerly been treated.

16 **COMMISSIONER GARCIA:** That's because what?
17 The program no longer exists?

18 **WITNESS KING:** The program no longer exists
19 and we don't have the billing systems to support it.
20 That's what I mean --

21 **COMMISSIONER GARCIA:** Right. I don't mean
22 customers that were gone years, because --

23 **WITNESS KING:** This is --

24 **COMMISSIONER GARCIA:** -- that's not what I'm
25 talking about. But if a customer was being billed in

1 a certain way until November of last year, and then
2 they noticed in December or January that that status
3 that they had is gone, I understand that it might not
4 be a regular process to get them on because it's not
5 on your general system, but I would assume that you
6 would be able to --

7 **WITNESS KING:** Generally that's true, and I
8 would need to look at the specific situation.
9 Generally it's absolutely true.

10 For example, if they had -- if they were in
11 a frequent flier program and all of those kinds of
12 possibilities, they should be restored to that
13 immediately.

14 **COMMISSIONER GARCIA:** Maybe we can give you
15 the names of the ones we have to see if you can help
16 them out because --

17 **WITNESS KING:** I will.

18 **COMMISSIONER GARCIA:** -- I know some of them
19 we weren't able to, and I'll have Consumer Affairs
20 give them the names of those persons that complained
21 to us about that in particular with MCI.

22 **WITNESS KING:** Okay.

23 **COMMISSIONER GARCIA:** Thank you.

24 **Q** **(By Ms. Caldwell)** Ms. King, did you hear
25 about the enhanced PIC switch-back program that goes

1 on with some -- I think BellSouth has a program?

2 A Yes.

3 Q You're familiar with that? Isn't it true
4 that when the switch-back does occur, that the carrier
5 receiving the switch-back does not always recognize
6 the customer, and therefore the customers -- therefore
7 the bill, it sometimes bills its subscriber as a
8 casual caller at a rate that includes a \$1.25
9 surcharge for the first minute?

10 A To my knowledge, that does not happen very
11 frequently. I think in most cases the carrier -- the
12 consumer would talk to their LEC, and then in most
13 cases would say you ought to talk to your long
14 distance carrier; that it really is a two-call
15 process, at which the consumer talking to the original
16 carrier would be put back on their former plans and so
17 forth.

18 In most cases, the record of that former
19 customer's subscription would still be available to
20 the long distance carrier.

21 Q How long do you have these records available
22 for your customers?

23 A We keep most of our records for years. It
24 would not be easily accessible in some cases. I don't
25 know the precise point at which it's archived, but it

1 is available for some time.

2 Q So that if they called back six months later
3 and said "I used to be your customer," that you could
4 eventually look them up and --

5 A Yes. Yes.

6 Q If you discover customers have been slammed,
7 actually slammed, and you're looking beyond the no
8 fault process, what action do you take against your
9 agents that caused the slams?

10 A We have a process of -- in fact, just so I
11 can step back for a minute -- all complaints about
12 unauthorized switches, even those reported through the
13 no fault process, are researched by a group at MCI
14 called the National Escalation Center. So that is one
15 step that is taken.

16 And would you repeat the question, however?
17 I just want to make sure I'm getting the right
18 context.

19 Q So if you discover customers have been
20 slammed --

21 A Uh-huh.

22 Q -- what action do you take against your
23 agent that caused the slam?

24 A I'm sorry. Part of the result of this
25 research is that if it becomes apparent that there was

1 a fault in the sales process, the agent is either
2 warned verbally or in writing or, in some cases,
3 terminated; and all of this information is carefully
4 tracked. It's the reason for the research being done.

5 Q Do you categorize the research to determine
6 the types, say, if they're committing a forgery, or --

7 A Absolutely. Yes. And forgery would cause
8 immediate termination.

9 Q And that's sort of a policy that you
10 currently have in place in the process?

11 A Yes.

12 Q Who do you think should be responsible for
13 providing the correct information to the billing
14 agent?

15 A Could you be more specific?

16 Q Well, you, as MCI, may hire out a
17 telemarketing company. So if the telemarketing
18 company does not get the specific -- they
19 transcribe -- or they invert a number or switch a
20 number that instead of 875, it's 873 or 837 or
21 something like that, who do you think should be
22 responsible?

23 Should the telemarketing company who got the
24 customer? Should MCI? Or should the billing agent --
25 should somebody verify that information at some point

1 before it gets transferred to the billing agent?

2 A In most cases MCI would be managing that
3 electronically. I must say I don't see how we could
4 verify it, however, in terms of making sure at all
5 times that there is not a transcription error. It
6 would be very duplicative kind of effort.

7 Q Are you familiar with your tariffed rates
8 for both intrastate and interstate?

9 A Not at the moment in terms of Florida.

10 Q Do you believe that if a company follows the
11 verification procedures required by the proposed
12 rules, that it would protect the company from consumer
13 fraud?

14 A To all of the rules you propose?

15 Q That's correct.

16 A I think we -- particularly in terms of the
17 90-day charge-back approach, we think there would be
18 considerably more consumer fraud.

19 Q If you followed the procedures?

20 A Even if we followed the procedures, because
21 I think it would encourage delay in reporting some of
22 the things I mentioned in my summary, and it also does
23 not encourage consumer responsibility for reporting
24 unauthorized -- what at least from their perspective
25 is an unauthorized switch as soon as possible.

1 Q But if you had a signed LOA or your
2 third-party verification recording of the actual
3 customer, then that would not be a slam.

4 A Right.

5 Q And then they would not be entitled to the
6 90-day or up to 90-day refund?

7 A My understanding is that the charge-back
8 would be immediate, and I think from there would --
9 could be very serious problems in dealing with that
10 whole process administratively; that once a consumer
11 says that he or she has been slammed, that it would
12 be -- it would have to be viewed by the LEC as a slam,
13 and the process becomes automatic at that point.

14 Q All right. The rule for the 90-day charge
15 states that "charges for unauthorized provider
16 changes." So if you had authorization for the
17 changes --

18 A If an LOA and third-party verification were
19 viewed by you as proof, that might be acceptable. I
20 think the issue is, as we said, that we believe that
21 it would be very important to include a definition of
22 what an unauthorized switch is. And we have not --
23 MCI does not record in terms of oral recording at this
24 time, and that's an issue we have not discussed much
25 so far.

1 Q Well, it is required by the rule.

2 A It would be required by the rule.

3 Q And the rule further states that charges for
4 unauthorized provider changes and all charges billed
5 on behalf of the unauthorized provider for the first
6 90 days or the first three billing cycles, whichever
7 is longer, shall be credited to the consumer by the
8 company responsible for the error within 45 days of
9 notification.

10 So it doesn't seem like there's an immediate
11 requirement. So based on that information, do you
12 believe that the company wouldn't be protected from
13 consumer fraud?

14 A I still think it would be very important to
15 have a very clear, concrete definition of what an
16 unauthorized switch is.

17 MS. CALDWELL: Thank you very much.

18 CHAIRMAN JOHNSON: Commissioners?

19 COMMISSIONER JACOBS: Excuse me. I have one
20 brief question. Ms. King, you indicated that you were
21 opposed to the 90-day requirement, and as an
22 alternative you cite the federal requirement for --
23 the make whole requirement.

24 WITNESS KING: The rerate, uh-huh.

25 COMMISSIONER JACOBS: Correct.

1 **WITNESS KING:** Uh-huh.

2 **COMMISSIONER JACOBS:** Has your company had
3 much experience implementing that provision?

4 **WITNESS KING:** Yes.

5 **COMMISSIONER JACOBS:** And what has been that
6 experience?

7 **WITNESS KING:** That I think in most cases
8 the rerate satisfies the consumer. I do think it's
9 extremely important that all of this be done very
10 expeditiously; that the consumer get switched back the
11 minute we hear the complaint, and that the rerate be
12 done, if possible, during that call, the plans for the
13 rerate if we can't do it at that time.

14 Sometimes we have to ask customers for a
15 copy of a bill from their original carrier so that we
16 know what plans and so forth that customer had with
17 whatever the other company was.

18 **COMMISSIONER JACOBS:** Okay. That was going
19 to be my next question. So you'd request a copy of
20 one of their bills while they were under the
21 unauthorized carrier?

22 **WITNESS KING:** Yes. It depends on the
23 circumstance. MCI, of course, knows and has records
24 of -- in most cases of the rates and so forth of our
25 competitors so, therefore, we can check that.

1 In some cases to assist the consumer as
2 quickly as possible, we will give a percentage; for
3 example, 30% reduction of the MCI bill to compensate,
4 and usually that would be on the generous side. They
5 make sure the percentage is on the generous side of
6 any possibility.

7 **COMMISSIONER JACOBS:** Okay.

8 **WITNESS KING:** Rerates can take a lot of
9 time by the time you get the bill in, look closely;
10 and sometimes giving a percentage, a discount if you
11 want to call it that, is more efficient.

12 **COMMISSIONER JACOBS:** And in response to a
13 question from Ms. Caldwell, you indicated that most
14 times it's going to be incumbent upon --

15 **WITNESS KING:** Yes.

16 **COMMISSIONER JACOBS:** -- the customer to ask
17 for that.

18 **WITNESS KING:** Yes.

19 **COMMISSIONER JACOBS:** So you don't make them
20 aware of that option when they --

21 **WITNESS KING:** We don't automatically
22 rerate; that's right. One thing I should point out,
23 in any research that I have done the preponderance of
24 complaints about unauthorized switches that come to
25 MCI are resolved in less than a month. In other

1 words, the whole transaction is very quick, so that in
2 most of those cases there would not be much of a
3 rerate involved. I think in those cases the consumer
4 just is anxious to get back to their original carrier.

5 COMMISSIONER JACOBS: Okay.

6 CHAIRMAN JOHNSON: Redirect?

7 MS. WARD: Just a few.

8 REDIRECT EXAMINATION

9 BY MS. WARD:

10 Q Ms. King, Ms. Caldwell asked you some
11 questions regarding the billing number address versus
12 the information that a long distance carrier might get
13 from a consumer that they're dealing with directly,
14 and I believe you also stated in your summary that MCI
15 is prohibited from using the bill number and address
16 information; is that correct?

17 A That's absolutely correct.

18 Q So does MCI -- what avenues or access does
19 MCI have to information to get from a consumer to use
20 in order to submit to a -- to make a PIC change
21 request?

22 A What are the sources of our information?

23 Q Yes.

24 A We use a variety of sources of information
25 and work very hard to make sure it is the most

1 accurate data we can get.

2 Q And is that information verified with the
3 customer directly?

4 A Yes. Yes.

5 Q You also, in response to a Staff question --
6 this was dealing with the changing back of a customer
7 regarding a PIC dispute -- and I believe the question
8 related to consumers that might be put back to MCI but
9 yet casually billed --

10 A Uh-huh.

11 Q -- if MCI did not realize that they were a
12 former customer. Would it matter -- the sooner that
13 the consumer notices the change and indicates that
14 they have been -- that they have a PIC dispute, does
15 that impact MCI's ability to put them back on the
16 appropriate plan?

17 A Yes.

18 Q And is sooner better than later?

19 A Absolutely, because that -- the occasion
20 Commissioner Garcia raises, unless our customer
21 service rep made a mistake, which is certainly
22 possible, it would be most likely that the person had
23 not been on MCI for some time and, therefore, we could
24 not put them back on the program that they wanted.

25 Q Another thing I wanted to have you clarify

1 for the record, MCI does not hire any telemarketers,
2 does it?

3 A No. We hire telemarketers, but they're all
4 in-house.

5 Q We do not --

6 A Right --

7 Q -- out house --

8 A Right. There are no agents.

9 Q Okay. But, now, MCI does hire and has an
10 independent provider of verification services; is that
11 correct?

12 A Absolutely correct, that it's completely
13 independent; no ownership interests, no compensation
14 for sales.

15 Q Does the telemarketing rep or the
16 third-party verification company submit the data to
17 the local exchange company for PIC switches?

18 A MCI does that.

19 Q You were also asked by Ms. Caldwell some
20 questions relating to the 90-day charge-back, and I
21 think Ms. Caldwell asked you that if MCI followed the
22 procedure, there wouldn't be an issue with giving the
23 customer a 90-day credit.

24 But is it your understanding that as soon as
25 a customer would submit an allegation that there has

1 been an unauthorized PIC change, that MCI would be
2 obligated to separate that amount, or the LEC would
3 even be obligated to separate that amount, and it
4 would not be subject to any collection action?

5 A Yes, through the LEC, and that is a very
6 serious concern to MCI. Looking at that closely, if I
7 understand the proposal correctly, if it was
8 determined -- if MCI determined that the sale was
9 indeed authorized, we would be entitled to collect.
10 But the problem from there is that the consumer would
11 probably be, number one, angry with MCI; number two,
12 already have switched; and also probably recognize
13 that we had very little clout in this matter. And in
14 discussing this with the folks at MCI, there is a
15 general consensus that the collectibles on this kind
16 of arrangement would be very low.

17 Q And is it your understanding that the LEC
18 would not be able to utilize -- or MCI would not be
19 able to utilize the normal billing and collection --

20 A Of the LEC --

21 Q -- process?

22 A Yes.

23 Q And would have to take an independent
24 collection action --

25 A Yes.

1 Q -- against the individual?

2 A Yes.

3 MS. WARD: Thank you. That's all I have.

4 CHAIRMAN JOHNSON: Don't you have

5 Exhibit 12?

6 MS. WARD: I'd like to have that admitted
7 into evidence, please.

8 CHAIRMAN JOHNSON: Show that admitted
9 without objection.

10 (Exhibit 12 received in evidence.)

11 CHAIRMAN JOHNSON: Thank you, ma'am. You're
12 excused.

13 (Witness King excused.)

14 - - - - -

15 CHAIRMAN JOHNSON: Sir?

16 MR. FINCHER: Madam Chairman, I think
17 someone wants to go ahead of us and make a brief
18 statement.

19 CHAIRMAN JOHNSON: Someone is trying to --
20 is it your witness? I don't remember your name.

21 UNIDENTIFIED SPEAKER: (Inaudible comments
22 not at the microphone.)

23 CHAIRMAN JOHNSON: Okay. I think that will
24 be fine.

25 MS. RULE: Commissioners, while you're

1 waiting, I would like to direct your attention to the
2 order that we'd like officially recognized. That's in
3 Docket No. 961458. That's a show cause proceeding
4 against Combined Companies, Inc. The order number is
5 No. PSC 971295-AS-TI. It's an order approving a
6 settlement with Combined Companies, Inc. And I can
7 make a copy and make sure you all get one.

8 **CHAIRMAN JOHNSON:** That was Order
9 No. 971295?

10 **MS. RULE:** Yes.

11 **CHAIRMAN JOHNSON:** Okay. The Commission
12 will take official recognition of that stated order.

13 Ms. Green, you were sworn last week, weren't
14 you? You weren't? Okay. Who are you representing?

15 **WITNESS GREEN:** I'm a commenter on behalf of
16 State Communications. I don't think I'm actually a
17 party, but I can be sworn, if you would like.

18 **CHAIRMAN JOHNSON:** Do we need to swear her
19 in? Okay. You didn't file as an official party? You
20 just filed -- did you file comments?

21 **WITNESS GREEN:** Right.

22 **CHAIRMAN JOHNSON:** If you could again start
23 by stating your name and address for the record and
24 then go forward with your comments.

25

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

4 **DIRECT STATEMENT**

5 **WITNESS GREEN:** My name is Marcy Green. I
6 work for the law firm of Swidler, S-W-I-D-L-E-R, and
7 Berlin at 3000 K Street NW, Suite 300, Washington,
8 D.C.

9 I'm here on behalf of State Communications,
10 Inc., an ALEC and IXC in the process of becoming
11 certificated throughout the U.S. including in Florida.
12 State is present today generally to support the
13 Commission's initiative to curb slamming and to
14 encourage the Commission to adopt rules that are
15 competitively neutral and fair, rules that are largely
16 modeled after the FCC's rules to allow for nationwide
17 marketing and consistency.

18 State agrees with many carriers who
19 submitted prefiled testimony and who testified here
20 today that part of the solution must be increased
21 prosecution of offenders rather than overly
22 restrictive and costly rules imposed on all carriers.

23 Habitual offenders will continue to flaunt
24 whatever rules are finally adopted. A few bad apples,
25 though, should not cause substantially increased costs

1 to law-abiding carriers in the form of overrestrictive
2 rules when, no matter what rules are in effect, bad
3 apples are going to continue their behavior unfazed.
4 Immediate prosecution including revocation of
5 certificate is the answer for those who will not play
6 by the rules.

7 State also recognizes that the Commission
8 does not want to be only reactive dealing with
9 problems once Florida consumers have been harmed, and
10 that's -- wisely considers rules proactively to
11 address the problem.

12 State supports that effort, but wants to
13 respectively remind the Commission that most carriers
14 will make every effort to obey the rules, and they're
15 asking that you help us in that effort by adopting
16 rules that are identical to or largely mirror the
17 FCC's rules and allow flexibility, especially for
18 small competitive entrants.

19 Most importantly, State is here today to
20 urge the Commission to reexamine its ban on LOAs
21 combined with any inducements and specifically accept
22 checks from the requirement that inducements cannot be
23 included to the LOA.

24 The FCC in a number of states have examined
25 this issue and specifically found check LOAs to be a

1 safe, appropriate means of authorizing carrier
2 selection. While this Commission must, of course,
3 promulgate its rules based on its own fact-finding, it
4 is instructive that a significant number of
5 jurisdictions who have examined this issue
6 specifically allow the use of checks combined with
7 LOAs. Many others simply don't address the issue and
8 rely on the FCC's rules.

9 We are aware of no jurisdiction that
10 specifically disallows the use of combined LOA checks,
11 although as written the California rules may
12 incidentally do that, because you have to provide a
13 copy of the LOA to the consumer at the time of sale.

14 The FCC recently reexamined the use of check
15 LOAs in its recent further notice of proposed
16 rulemaking. Noting that a full record was developed
17 on the issue in '94 and '95, and that the Commission
18 received relatively few complaints about check LOAs,
19 the Commission continues to permit the use of checks.
20 The Commission also noted that all of the complaints
21 it received were against one former carrier, again
22 indicating that at least for a check LOA, a proper
23 solution would be to allow it and then to prosecute
24 offenders.

25 Check LOAs are beneficial to consumers.

1 They provide a clear, simple, and straightforward
2 means to change carriers and an economic incentive to
3 do so. Telemarketing has its ups and downs, but
4 checks do not -- they're not an unwelcome intrusion in
5 anyone's dinner hour or any other time. It can be
6 perused or discarded at people's convenience.

7 There are few or no complaints in Florida
8 related to checks or LOAs. I reviewed every complaint
9 provided in Mr. Poucher's exhibit in the first volume.
10 I've never received the second or third. I thought I
11 would have by now. In only one instance was a check
12 or LOA mentioned. A Ms. Linda Hoffman at Page 58
13 received a check, called to confirmed that check --
14 cashing the check would change her carrier, and chose
15 not to. A slam allegedly occurred when the carrier
16 switched her service based on the inbound inquiry.

17 As drafted, the rule is overbroad. This
18 Commission can require separation of inducements, as
19 the FCC and other states do, and accept checks from
20 that requirement.

21 While I'm not here to argue the pros and
22 cons of sweepstakes and contest entries that are
23 combined with LOAs, I understand that one of Staff's
24 concerns is that if checks are accepted, sweepstakes
25 and contest entries may also have to be accepted from

1 the prohibition against inducements on the same
2 document. This experiences of many states does not
3 bear this out. Some states have chosen to allow
4 checks and also disallow the use of a contest entry.

5 As written, this will disproportionately
6 affect small carriers such as State who are trying to
7 break into the market. They need the flexibility to
8 market innovatively and legally. They don't have the
9 benefit of name recognition, long-standing customer
10 relationships or enormous marketing budgets.

11 There was limited prefiled testimony and
12 prehearing statements that addressed the issue of
13 check LOAs and absolutely no evidence given on which
14 the Commission could make a finding that checks are
15 anything but acceptable and valuable marketing tools.

16 Jane King in her November 24 testimony
17 includes deceptive checks in her causes of slamming
18 problems, but provides no real evidence of that. And
19 we agree that check LOAs must provide all standard LOA
20 disclosures in order not to be deceptive.

21 Ms. Bridges of the Commission Staff provided
22 them testimony on problems with various marketing
23 methods, but never mentioned abuses with checks or
24 LOAs, and that's because there are few to none.
25 According to Dick Durbin of the Commission's division

1 of consumer affairs, the Commission rarely receives
2 complaints relating to check LOAs.

3 In conclusion, State Communications
4 respectfully urges the Commission to reconsider its
5 proposed prohibition on the use of combined check LOAs
6 and to specifically except check LOAs from the
7 prohibition against combining inducements on the same
8 document.

9 Thank you.

10 **CHAIRMAN JOHNSON:** Thank you, Ms. Green.
11 Any questions for Ms. Green? Staff, any questions?
12 Commissioners? (No response.)

13 Thank you very, much.

14 **MR. FINCHER:** Sprint calls Sandee
15 Buysse-Baker.

16 - - - - -

17 **SANDEE BUYSSE-BAKER**
18 was called as a witness on behalf of
19 Sprint-Communications Company, Limited Partnership
20 and, having been duly sworn, testified as follows:

21 **DIRECT EXAMINATION**

22 **BY MR. FINCHER:**

23 **Q** Have you previously been sworn?

24 **A** Yes, I have.

25 **Q** Would you state your name and business

1 address, please?

2 A My name is Sandy Buysse-Baker, and my
3 business address is 10951 Lakeview Drive in Lenexa,
4 Kansas, 66219.

5 Q And by whom are you employed and in what
6 capacity?

7 A I'm employed by Sprint Communications
8 Company, Limited Partnership, and I am employed as a
9 project manager for verification.

10 Q Did you prefile direct testimony in this
11 proceeding consisting of 10 pages?

12 A Yes, I did.

13 Q Did you also file a revised Page 3 to your
14 direct testimony on January the 29th, 1998, deleting
15 three sentences?

16 A Yes, I did.

17 Q Do you have any corrections, additions, or
18 deletions from that testimony, your direct testimony?

19 A Yes, I do.

20 Q Would you give that, please?

21 A Page 6, Line 2 I would like to delete the
22 word "exit" and replace it with "exist".

23 Also Page 6, Lines 10 through 12, delete the
24 sentence beginning with "also" and ending with
25 "carrier".

1 Page 7, Lines 2, 3, and 4, delete the
2 sentence beginning with "in" and ending with
3 "generally", and substitute "This affords the ILEC an
4 unfair advantage over its competitors."

5 Page 8, Line 7, add the word "and" between
6 "remorse" and personnel".

7 Page 8, Line 8, delete that portion of the
8 sentence beginning with "and" and ending with "ILECs".
9 Add a period after "process":

10 Page 8, Line 24, delete the word "processed"
11 and replace with "initiated".

12 Page 8, Lines 24 through 25, delete the
13 sentence beginning with "As" and ending with
14 "purpose".

15 Page 9, Line 2, delete the word
16 "indiscretion" and replace with "involvement".

17 Page 9, Lines 5 and 6, delete the word "the"
18 and that portion of the sentence beginning with "of"
19 and ending with "carriers," and insert rather after
20 the word "by" the words "any carrier that
21 intentionally engages in".

22 I'll read that sentence as corrected. That
23 was a little confusing. The sentence should read "The
24 Commission's proposed regulations are also unlikely to
25 have any beneficial impact on slamming caused by any

1 carrier that intentionally engages in fraudulent
2 practices."

3 Page 9, Line 6, delete "these" and replace
4 with "such".

5 And this is the last change on the direct.
6 Page 9, Lines 10 through 11, delete the portion of the
7 sentence beginning with "criminal" and ending with
8 "choice". Insert after the word "rather" the words
9 "the imposition of appropriate sanctions".

10 Q Does that complete your changes to your
11 direct testimony?

12 A Yes, it does.

13 Q As corrected, is that your testimony, true
14 and correct?

15 A Yes.

16 Q If I ask you the same questions today to the
17 questions set out in your direct testimony, would your
18 answers be the same as set out therein?

19 A Yes.

20 MR. FINCHER: Madam Chairman, could I have
21 the direct testimony of Sandy Buysse-Baker inserted
22 into the record as if given orally from the stand?

23 CHAIRMAN JOHNSON: It will be inserted as
24 though given.

25 Q (By Mr. Fincher) Did you also file

1 rebuttal testimony consisting of 16 pages?

2 A Yes.

3 Q Do you have any corrections or deletions to
4 that testimony?

5 A Yes.

6 Q Could you give it, please?

7 A Page 3, Line 1 delete "financial loss" and
8 replace with "expenditures".

9 Page 8, Lines 7 through 20, delete all that
10 paragraph beginning with "in" on Line 7 and continuing
11 through "ILECs" on Line 20.

12 Page 10, Lines 11 through 13, delete the
13 sentence beginning with "as" and ending with
14 "competition".

15 And I have one final change. Page 15,
16 Line 8, delete that portion of the sentence beginning
17 with "as" and ending with "testimony".

18 Q Does that complete your corrections?

19 A Yes.

20 Q And as corrected, is your rebuttal testimony
21 true and correct?

22 A Yes.

23 Q If I ask you those same questions, would
24 your answers be the same?

25 A Yes.

1 **MR. FINCHER:** Madam Chairman, may I have the
2 rebuttal testimony of Ms. Buysse-Baker entered into
3 the record as if given orally from the stand?

4 **CHAIRMAN JOHNSON:** It will be so inserted.
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**DOCKET NUMBER 970882-TI****DIRECT TESTIMONY OF SANDEE BUYSSE-BAKER
ON BEHALF OF
SPRINT COMMUNICATIONS COMPANY LIMITED PARTNERSHIP**

1 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

2

3 A. My name is Sandee Buysse-Baker and my business address is 10951 Lakeview Drive,
4 Lenexa, Kansas 66219.

5

6 Q. BY WHOM ARE YOU EMPLOYED AND WHAT IS YOUR CURRENT POSITION?

7 A. I am employed by Sprint Communications Company Limited Partnership ("Sprint"). My
8 current position is Verification Project Manager.

9

10 Q. WHAT ARE YOUR PRIMARY RESPONSIBILITIES AS A VERIFICATION PROJECT
11 MANAGER?

12

13 A. My responsibilities include managing the Third Party Verification Program, the "Welcome
14 Package" program, and the Letter of Agency ("LOA") process for Sprint's sales channels. I
15 work with three independent companies contracted by Sprint to function as Inbound Verification
16 Call Center, and one company that distributes "welcome package" verification letters. I am
17 responsible for the verification systems, budgets, scripting, and daily operations. I am also
18 responsible for ensuring that all federal and state rules are being followed as they pertain to
19 changes in consumer telecommunications providers.

20

21

22

23

1 Q. PLEASE SUMMARIZE YOUR TELECOMMUNICATIONS EXPERIENCE AND
2 EDUCATIONAL BACKGROUND.

3

4 A. I began my career with Sprint in 1993. I have held positions of increasing responsibility in
5 sales, sales management, and most recently, vendor operations. I have a Bachelor of Science in
6 Psychology and a Master of Arts in Business Administration from the University of Iowa, in
7 Iowa City, Iowa.

8

9 Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS COMMISSION?

10

11 A. No.

12

13 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS DOCKET?

14

15 A. The purpose of my testimony is to explain Sprint's concerns regarding the Florida Public
16 Service Commission's ("Commission") proposed rule changes in Docket Number 970882-TI
17 governing the manner in which local and long distance companies will be required to verify
18 changes in a subscriber's selection of a telecommunications service provider.

19

20 Q. WHAT WOULD SPRINT RECOMMEND CONCERNING THE PROPOSED NEW RULE
21 CHANGES?

22

23 A. Sprint agrees that unauthorized changes in a subscribers' carrier selections, a practice
24 commonly known as 'slamming,' is a significant consumer problem. Slamming clearly impacts
25 all participants in the competitive interexchange market. What is not yet certain, however, is
26 how best to address the problem.

27

28 In Sprint's view the Commission's proposed rule changes are unnecessary as the current rules are
29 adequate and, when adhered to, have the capability to control the slamming problem. However,

(revised 1/29/98)

1
2 Sprint recommends that the Commission avoid the indiscriminate application of its rules
3 to all carriers. The general public would be better served if the Commission would focus
4 on those carriers that intentionally and habitually change a customer's service without
5 any authority or justification.

6
7 Sprint recommends that this Commission adopt rules that are consistent with Federal
8 rules to ensure that carriers are successful in implementing their verification process.
9 There appears to be no basis for differing rules and, in order to maximize overall
10 effectiveness, state and federal rules should be similar. Any interexchange carrier that is
11 required to utilize differing verification practices based on an individual state's rules may
12 find itself in violation of either the state or federal requirements. State specific rules
13 should mirror the federal requirements.

14
15 Q. WHAT ARE SPRINT'S SPECIFIC CONCERNS REGARDING THE PROPOSED
16 RULE CHANGES?

17
18 A. The Commission's proposed rule 25-4.118(2)(b)(1) & (2) and (c)(1)&(2) would
19 require a customer, on a customer-initiated call, to specifically consent to an audio
20 recording of the customer's request to allow Sprint to change their Preferred Interchange
21 Carrier ("PIC"). This proposed rule change would also require audio recording of the
22 third party verification. Sprint believes that an audio recording is of no greater value in
23 verifying the validity of a customer's carrier choice than other methods. Obtaining a
24 recording of the conversation between the customer and an independent third party
25 verification vendor is an unnecessary additional step that increase the cost of verification,
26 and adds no additional security for the customer. The 'recording' offers no guarantee
27 that the person authorizing the order is the true customer with decision-making authority
28 for the telephone service. Also, a customer could easily deny that the
29

1 recording is their voice. Further, a requirement of customer consent to the recording prior to the
2 sale could deter customers from switching carriers. Some people simply do not want to have
3 their conversations recorded.

4
5 The Commission's proposed rule 25-4.118(4), would prohibit inducements of any kind from
6 being combined with the LOA. Sprint suggests that the proposed rule be clarified to make it
7 clear that negotiable instruments, such as checks, are not to be combined with an LOA. Offering
8 \$100 checks provides an immediate incentive for a non-decision maker to sign a check
9 authorizing a switch in carriers.

10
11 The Commission's proposed rule 25-4.118(2)(d)(5), would require that a postcard be signed by
12 the customer and received by the carrier before submitting a change request to the local provider.
13 If implemented, this rule would not only confuse customers but would impede fulfilling the
14 intentions of the customer to change their PIC. This proposed rule would create customer
15 complaints when service is not connected. Sprint currently sends postcards to customers when
16 Sprint is unable to contact them for verbal verification. Customers are advised that if the
17 postcard is not returned to Sprint canceling the requested PIC change within 14 days, their
18 desired request will be processed. As a general rule, customers usually do not return these
19 postcards; they assume that their long distance service will be switched. Absent some data to
20 indicate that significant slamming complaints are being generated from the postcard option, the
21 present verification method should remain unchanged.

22
23 Proposed rule 25-4.118(2)(d)(6), requires Florida specific information in the informational
24 package. For customers that cannot be verified using third party verification, Sprint sends each
25 new customer a Welcome Package confirming their PIC change order. Each package includes
26 instructions directing the customer to return the enclosed post card if they no longer want to
27 change their PIC. However, if this package were required to contain state specific information,
28 interexchange carriers would incur substantial additional printing and administrative costs. Any
29 increase in administrative costs could impede competition since not all small carriers would have

1 the needed resources. At a time when the industry is encouraging competition, legislation that
2 increases operating costs would have a negative impact to the interexchange market.

3 Additionally, increases such as these could potentially raise the service rates offered to the
4 customer.

5
6 Proposed rule 25-4.118(8), requires that all charges billed on behalf of the unauthorized provider
7 should be credited to the customer by the company responsible for the error. Sprint opposes any
8 rule that would relieve any customer's responsibility for paying for services they received. Rule
9 changes of this type would encourage fraud and bad debt for all interexchange carriers. When
10 customers use and receive benefit from a service they are legally obligated to pay for that service.
11 Any rule that absolves a customer of their financial responsibility only provides incentives for
12 bogus slamming complaints and PIC disputes for the purpose of obtaining free long distance
13 service. Additionally, such a rule would create significant regulatory costs and increase, not
14 decrease, the number of slamming complaints and PIC dispute. This increase in administrative
15 costs will impede the development of competition.

16
17 Proposed rule 25-4.118(10), requires that the verification process be amended to eliminate any
18 reference to any company except the company claiming the customer and the company name of
19 the independent verifier. Sprint believes that identification of the independent verifier will only
20 create customer confusion. Sprint's independent verifier now uses the name of "Verification."
21 Sprint has not received any customer complaints as the result of this procedure.

22
23 Q. WHAT ADDITIONAL ISSUES THAT CONTRIBUTE TO THE SLAMMING PROBLEM
24 SHOULD THE COMMISSION CONSIDER.

25
26 Sprint believes that there are several factors contributing to the slamming problem. One specific
27 factor can occur at the point of order execution. Although innocent and inadvertent, mistakes by
28 personnel can cause a customer to receive an inaccurate PIC. Individual interexchange carriers
29 and incumbent local exchange carriers process tens of thousands of PIC changes in any given

1 month. In most situations the order entry process is entirely manual. It is therefore reasonable to
2 expect that the probability of human error will always ^{exist} ~~exist~~.

3 Another common cause of PIC disputes is buyer's remorse or an allegedly improper decision-
4 maker. In some situations, the customer simply changed their mind about switching to Sprint or
5 the person who made the decision to switch was not authorized to do so. Sprint has also
6 documented cases in which husbands and wives simply disagree. Although the wife may have
7 made the decision to switch to Sprint, the husband wants to retain their original long distance
8 company. An argument follows and slamming complaint is filed.

9
~~10 Also, there are a number of unscrupulous subscribers that allege they have been slammed in
11 order to obtain a refund of the carrier change fee already paid to the ILEC and avoid any new
12 change fees incurred in switching to another carrier.~~

13
14 Sprint examined the reasons that customers change their decision to switch to Sprint during the
15 third party verification process. During the month of July, 1997, of all of the customers
16 processed through third party verification, 93.7 percent confirmed their decision to switch to
17 Sprint. Although the data was not generated from actual PIC Dispute data, it aids in our
18 understanding of PIC Disputes. Sprint found that 24.7 percent of those that did not confirm the
19 sale had changed their minds about switching to Sprint. Sprint also found that less than 1 percent
20 of all orders processed in third party verification were canceled due to either Sprint personnel
21 entering an incorrect number, or the customer providing an incorrect number. Sprint has found
22 that even in those cases in which Sprint obtains the customer's signed LOA, the telephone
23 number provided by the customer may be incorrect.

24
25 Additionally, slamming is not always the result of an error on the part of the long distance
26 carrier. ILECs maintain control of the carrier change process. When a customer calls their local
27 telephone company business office to complain of an unauthorized PIC change, it is far easier for
28 the ILEC to attribute the error to unaffiliated interexchange carriers and ALFCs. The ILEC has
29 the opportunity to "bury" any mistake by blaming other carriers. This is a reasonable

1 presumption. The ILEC need only make the change requested by the customer and is free to
2 attribute the unauthorized PIC change to slamming by the interexchange carrier. ~~In today's~~
3 ~~increasing competitive environment, this is yet another opportunity for the ILEC to damage the~~
4 ~~reputations of their competition and further a strategy of attacking competition generally.~~
5

6 Sprint would also like to make the point that most alleged slamming seems to result when
7 customers sign-up for service from a reseller. The local telephone company records will show
8 the customer connected to the underlying facilities-based company, not the reseller, so, even
9 though the customer has not been slammed, it might appear otherwise. A large number of
10 resellers resell Sprint service, using Sprint's Carrier Identification Code ("CIC"), so the
11 opportunity for confusion is significant. Sprint has been aggressively working with its resellers
12 to inform their customers of the fact, in order to try to minimize this confusion.
13

14 Q. WHAT FACTORS MOTIVATE SPRINT TO MINIMIZE THE UNAUTHORIZED
15 CONVERSION OF CUSTOMERS?

16
17 A. The competitive market. No interchange carrier that values its name and reputation will
18 deliberately engage in slamming. It makes no sense, either from a business perspective or for
19 economic benefit, to do so. Slamming makes it harder for the interexchange carrier to compete
20 in the marketplace because it will quickly destroy valued customer goodwill the carrier has
21 worker hard to generate. Slamming also increases the carrier's customer service costs associated
22 with handling slamming calls and inquires forwarded to the carrier by both federal and state
23 officials. In addition, slamming has no lasting revenue effect because slammed customers are
24 eventually returned to their carrier of choice. The competitive market provides the necessary
25 motivation for any interexchange carrier that has substantial fixed investment and is in the
26 market for the long term to minimize any factor that results in the unauthorized conversion of a
27 customer to a service they did not chose.
28
29

1 Q. WHAT ADDITIONAL SAFEGUARDS DOES SPRINT RECOMMEND THAT THE
2 COMMISSION ADOPT?

3
4 A. Sprint recommends that the commission consider adopting rules that are clearly in the public
5 interest. This type of rule changes should be based on a complete understanding of why
6 slamming occurs. I have mentioned earlier that there are certain situations that appear as
7 slamming but in reality are not; such as buyers remorse,^{and} personnel errors in the order entry
8 process, ~~and blatant misrepresentation by the ILECs.~~

9
10 The rules that the Commission have proposed will not be particularly helpful in reducing
11 slamming. For example, the third-party verification process currently used by Sprint, has been
12 very successful in determining buyers remorse. This situation is clearly an element of doing
13 business in the today's competitive telecommunication industry. The rules the Commission
14 seeks to implement will not reduce buyers remorse.

15
16 As stated earlier, there is already enormous financial pressure to minimize employee mistakes
17 occurring during the order entry process. These mistakes are inefficient and costly. Sprint
18 corrects these errors through its "no-fault" policy. When Sprint receives a PIC dispute from the
19 customer's ILEC, we instruct such ILEC to return the complaining customer to his previous
20 carrier and reimburses the customer for all carrier change charges incurred. Sprint not only
21 incurs the PIC change fee but also incurs the administrative costs associated with handling these
22 disputes. Although Sprint rectifies each customer PIC dispute by reimbursing the change charge,
23 Sprint is not always the carrier that made the error. A very high percentage of our new customer
24 orders are ^{initiated} ~~processed~~ by the ILEC. ~~As I have noted earlier, ILECs have already demonstrated a~~
25 ~~propensity to exploit the slamming issue for their own competitive purpose.~~ If the Commission
26 is to minimize mistakes in the execution of PIC changes, it needs to relieve the ILEC of their
27 control of the PIC change process. The carrier change order process should be assigned to a
28 neutral third party. Neutral third party administration would ensure equal treatment of all
29 carriers and avoid any appearance of impropriety or anti-competitive behavior. Sprint

1 recognizes, however, that it may take some time to accomplish this goal. Therefore, Sprint
 2 recommends the Commission adopt measures that would minimize ILEC ^{involvement} ~~indiscretion~~ in
 3 administering the PIC change process.

4
 5 The Commissions proposed regulations are also unlikely to have any beneficial impact on
 6 slamming caused by ~~the fraudulent practices of unscrupulous carriers. These carriers currently~~ ^{any carrier that intentionally engages in fraudulent practices.}
 7 do not comply with the FCC's rules designated to curtail slamming and are unlikely to obey any
 8 new anti-slamming regulations this Commission may adopt. What is needed to deter the fraud
 9 practiced by such carriers and their agents is not more verification or reporting requirements or
 10 additional rules of any kind, but rather ~~criminal prosecution and fines for those who deliberately~~ ^{the imposition of appropriate sanctions.}
 11 ~~set out to steal customers from carriers of their choice.~~

12
 13 Sprint recommends that no rules be implemented to verify PIC changes resulting from inbound
 14 telemarketing efforts. Until evidence is presented that a slamming problem exists as a result of
 15 this operation, the benefits of verifying PIC changes outweigh the substantial costs of such
 16 verification.

17
 18 Q. COULD YOU PLEASE SUMMARIZE YOUR TESTIMONY?

19
 20 A. Sprint is currently in compliance with the FCC rules relating to Common Carriers¹ regarding
 21 verification of orders for long distance service generated by telemarketing. State specific rules
 22 that vary from the federal rules place Sprint in the difficult, if not impossible, role of trying to
 23 comply with the various individual state and federal rules. Sprint systems, methods and
 24 procedures, and contractual agreements with third party vendors, often make it difficult to adapt
 25 quickly, or at all, to state specific requirements. Rules absolving customers of liability in the
 26 event of an unauthorized change in telecommunications providers only provides incentives for
 27 fraudulent claims. There are enormous financial and public relations pressures to minimize
 28 unauthorized switched in telecommunications providers for companies with a long term vested

¹ Subpart K, ss 64-1100 Docket No. 91-64 57 FR 4740

1 interests in the industry. Sprint recommends that the Commission relieve the ILECs of their
2 control of the PIC change process and assign this responsibility to a neutral third party. As stated
3 earlier, it will take time to accomplish this goal. In the interim, if the Commission would adopt
4 rules to discourage ILEC mishandling of the PIC change process, it could ensure that slamming
5 claims are legitimate and could potentially gain access to the root cause of slamming.
6 Furthermore, Sprint believes that the Commission should delay implementing any rule changes
7 until the FCC finalizes its forthcoming rulemaking.

8

9 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

10

11 A. Yes.

12

13

14

15

16

17

18

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NUMBER 970882-TI

**REBUTTAL TESTIMONY OF SANDEE BUYSSE-BAKER
ON BEHALF OF
SPRINT COMMUNICATIONS COMPANY LIMITED PARTNERSHIP**

1 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

2

3 A. My name is Sandee Buysse-Baker and my business address is 10951 Lakeview
4 Drive, Lenexa, Kansas 66219.

5

6 Q. ARE YOU THE SAME SANDEE BUYSSE-BAKER THAT PRE-FILED DIRECT
7 TESTIMONY IN THIS DOCKET ON BEHALF OF SPRINT COMMUNICATIONS
8 COMPANY LIMITED PARTNERSHIP ("SPRINT")?

9

10 A. Yes, I am.

11

12 WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

13

14 A. The purpose of my rebuttal testimony is to respond to the pre-filed Direct Testimony
15 of R. Earl Poucher, Office of the Attorney General, and Alan Taylor of the Commission
16 Staff.

17

18 DO YOU AGREE THAT THE SLAMMING PROBLEM CAN BE CONTROLLED
19 WITH THE ADDITIONAL RULE CHANGES BEING PROPOSED BY WITNESS
20 POUCHER?

21

22 A. No, not entirely. Sprint agrees that slamming is a significant industry problem.
23 Slamming is clearly a problem for consumers and telecommunications providers alike.
24 Long distance providers, specifically Sprint, have found that slamming complaints are
25 costly to resolve and an inefficient use of our employee's time. Sprint has incurred

expenditures

1 significant ~~financial loss~~ in its efforts to make the customer whole. Sprint reimburses the
2 customer for all PIC change fees and adjusts the billing to reflect the rate of the previous
3 carrier. It is Sprint's objective to avoid slamming complaints.

4 While it is true that some of the recommendations proposed by Mr. Poucher may have
5 merit, others will be ineffective in reducing the problem of slamming.

6

7 WHAT ARE YOUR COMMENTS CONCERNING MR. POUCHER'S PROPOSAL
8 (Poucher Direct, Page 4, lines 9-12) THAT THE PSC REQUIRE A MONTHLY
9 REPORT OF SLAMMING COMPLAINTS RECEIVED BY LECs, ALECs and IXC's?

10

11 A. Sprint would support this recommendation if a neutral third party were appointed to
12 perform all administrative activities as well as produce the report. This recommendation
13 is consistent with the proposal Sprint made to the FCC for consideration in its upcoming
14 Rulemaking on slamming. Sprint believes that ILECs should not be given the
15 responsibility to produce this report.

16 Additionally, Sprint believes that such a report would provide beneficial information to
17 the entire industry, and allow the Commission to focus on those carriers that intentionally
18 evade the Commission's Rules. These carriers have no real investment in the integrity of
19 the marketplace. Sprint does consider slamming to be a poor business practice since it
20 makes it harder for IXCs to compete because it quickly destroys valued customer
21 goodwill.

22 Sprint has taken decisive action to lessen the "personal trauma" for those customers who
23 claim to have been slammed. Our "No Fault" Policy allows any consumer claiming to
24 have been slammed to receive full reimbursement for all PIC change fees. In addition
25 Sprint will credit the consumer the difference, if any, in the billed rates from those rates

1 that would have applied with the original long distance provider.

2

3 DOES SPRINT HAVE A SPECIFIC RECOMMENDATION CONCERNING THE
4 MONTHLY REPORT?

5

6 A. Yes. Sprint recommends that the administrative responsibility for producing this
7 monthly report be assigned to and administered by a neutral third party. Allowing the
8 LECs to perform this function puts them in the unique position of having authority and
9 control over the IXC's that have become their competition. A neutral third-party
10 administrator would eliminate the ability of the ILEC to gain market advantage by
11 damaging the reputation of competitive IXC's. A neutral third-party administrator would
12 ensure that all carriers are judged by the same standards.

13

14 DO YOU HAVE ANY COMMENTS CONCERNING THE TEN ADDITIONAL
15 CHANGES TO THE PROPOSED RULE AS SUGGESTED BY MR. POUCHER?

16

17 A. Yes, I do.

18

19 WOULD YOU PLEASE COMMENT ON MR. POUCHER'S SUGGESTED CHANGE
20 NUMBER 1.

21

22 A. Yes. in those cases where the Staff of the Commission concludes that the company or
23 its agent has willfully engaged in fraudulent switching of a customer's choice of carriers,
24 Mr. Poucher's suggested change number 1 would require the Commission Staff to initiate
25 a separate docket and present each case separately to the Commission for appropriate

1 disposition. Sprint supports any initiative that identifies legitimate slamming and
2 cramming cases. Accordingly, Sprint concurs in and supports Mr. Poucher's
3 recommendation that the Staff of the PSC be required to initiate a separate docket and
4 present each case separately to the Commission when a company or its agent has willfully
5 engaged in a fraudulent PIC change. Absent mitigating circumstances, Sprint also
6 supports imposing the maximum fine allowable (\$25,000) when any company engages in
7 fraudulent switching of consumers. Moreover, Sprint believes that the only way to deter
8 slamming is for the Commission, to the extent of its authority, to impose punitive
9 sanctions. Sprint fully supports "slamming the slammers."

10 While Sprint supports the obligation of the PSC Staff to investigate customer complaints
11 concerning slamming, it is Sprint's desire that Staff understands that there are a number
12 of situations that contribute to the slamming problem, ranging – perhaps along a
13 continuum --from innocent and inadvertent mistakes by IXC's, ILEC's and ALEC's in the
14 order entry process to intentional fraud practiced by certain carriers or their marketing
15 agents that use deceptive practices to convert consumers to their service. The real reason
16 for an alleged slam may range from an innocent case of buyer's remorse to an attempt by
17 some subscribers to fraudulently obtain a refund of any carrier change fee incurred in
18 switching to another carrier and perhaps even to obtain free toll service from the allegedly
19 unauthorized carrier.

20 Sprint would also support any and all efforts on the part of the Commission to conduct an
21 investigation to obtain an understanding as to why a slam occurs. Once this root cause
22 analysis has been evaluated, the Commission should use this information in developing
23 its new Rules and imposing penalties for slamming offenses.

24

25 Q. PLEASE COMMENT ON MR. POUCHER'S SUGGESTED CHANGE NUMBER

1 2.

2

3 A. Under Mr. Poucher's suggested change number 2, upon receiving a complaint from a
4 subscriber of an unauthorized change of carriers, whether the complaint is legitimate or
5 not, a LEC is required to: (a) immediately change the customer back to the customer's
6 original carrier; (b) offer to freeze the customer's choice of carriers; (c) charge back the
7 "slamming" IXC all existing billing up to 90 days or three billing periods, whichever is
8 longer, and credit the customers LEC account with the amount of the charge-back, and;
9 (d) block the customer's account from future billing from the carrier that caused the slam.

10 I will comment on each of these four proposed requirements. The proposals Mr. Poucher
11 sets out in (a) and (b) simply would perpetuate the current industry problem of giving
12 LECs power and control over IXCs and permitting anticompetitive behavior. Sprint
13 would recommend that the Commission consider eliminating the LEC's "gatekeeper"
14 control of the carrier change process. Sprint recommends the adoption of a remedy that
15 would remove the LECs as "gatekeepers", rather than add additional requirements as
16 proposed by Mr. Poucher. Sprint further recommends that the Commission assign the
17 administration of the carrier change process to a neutral third party. Sprint recognizes
18 that a third party administrator may need to exercise some discretion in processing carrier
19 change orders received from carriers. It may, for example, want to check to ensure that
20 the carrier with a history of slamming and less than accurate verification procedures has
21 submitted properly verified PIC change orders. Vesting a neutral party with such
22 responsibility does not present the same risk of anti-competitive behavior that exists if the
23 ILECs were to perform the same function. A neutral third party administrator should
24 apply the same standards to all carriers. Third party administrators are not unusual in
25 the telecommunications industry. The telecommunications industry has already set a

1 precedent for using third-party administrators. For example, the industry has been using a
2 third party vendor to administer the national 800 database and will soon begin to use a
3 third party administrator for the National Consumer Telecommunications Database
4 Exchange.

5 Mr. Poucher's proposal in (c) would, in effect, relieve customers who claim to have been
6 slammed of the obligation to pay any of the charges for the calls made during the time
7 that they were assigned to an allegedly unauthorized carrier. Sprint believes that such a
8 rule would only encourage fraud and facilitate an increase in slamming complaints rather
9 than reduce them. When word is out that you can claim "slammed" and you are relieved
10 of the obligation to pay for the toll usage, fraud and slamming complaints will increase.
11 Sprint believes that any rule absolving customers of liability in the event of an alleged
12 unauthorized PIC change only provides incentive for fraudulent slamming claims. There
13 are significant financial and public relations pressures to minimize unauthorized PIC
14 changes for those companies, such as Sprint, that have a long term vested interest in the
15 industry. The general public would be better served if the Commission would focus on
16 those carriers that intentionally and habitually change a customer's service without any
17 authority or justification. In recommendation (d), Sprint fails to understand what benefit
18 would be realized by blocking the customer's account from future billing from the carrier
19 that caused the slam. Although Mr. Poucher may believe that this would relieve the
20 customer of any personal trauma, it would in reality further encourage fraud. When
21 certain consumers learn that they could use dial-around access to the network of the
22 slamming carrier and not be billed for their toll usage, fraud would escalate.
23 Mr. Poucher's proposal to require the LEC to disassociate the customer's regular
24 telephone billing of the charges from the offending carrier for both past and future billing
25 again places the LEC in a position of control over IXCs. As stated earlier in my

1 testimony, Sprint believes that the best method for resolving PIC change disputes is for
2 the Commission to appoint a neutral third party. This method removes all opportunity for
3 anti-competitive behavior. The ILEC will no longer be subject to the competitive
4 pressures to control the PIC change process to their advantage.

5 Sprint would also expect this third-party administrator to conduct a thorough
6 investigation to determine the merit of the complaint. This administrator should have full
7 authority to report its findings to the Commission for assessing penalties as necessary. ~~In~~

~~today's environment, there is already enormous financial pressure to eliminate slamming
9 complaints. Complaint resolution is inefficient and costly. Sprint LD corrects these
10 situations through its No Fault Policy. When Sprint receives a PIC dispute from the
11 customer's ILEC, we instruct the ILEC to return the customer to his previous carrier and
12 reimburses the customer for all carrier change charges incurred. Sprint not only
13 reimburses the customer for the PIC change fee, we also adjust the customer's billed toll
14 to reflect the rate of the previous carrier (if the previous carrier's rate is lower than
15 Sprint's rate). These carriers do not have much investment in the market nor are they
16 interested in doing business in the long term. They not only violate the Commission's
17 Rules, but they disparage reputable companies such as Sprint. As stated earlier in my
18 testimony, Sprint recommends that the PIC Freeze process be
19 administered by a neutral third party. Allowing the ILEC to impose a PIC Freeze will
20 only facilitate the abuse of responsibility currently practiced by some ILECs.~~

21

22 PLEASE COMMENT ON MR. POUCHER'S SUGGESTED CHANGE NUMBER 3.

23

24 A. Mr. Poucher's third recommendation would require the Commission to adopt a rule
25 providing that no carrier guilty of changing a customer's PIC without his or her

1 knowledge or authorization will be allowed to bill or collect for any of the services
2 provided to the customer during the period of unauthorized service up to 90 days or 3
3 billing periods, whichever is greater. This recommendation would not inflict any
4 financial hardship on those carriers that do not comply with the current Commission
5 Rules. Rather it would impose significant financial loss for those long distance providers
6 that are diligent in following the Commission's Rules. Although Mr. Poucher may
7 believe that this recommendation would benefit consumers and punish the offending
8 carriers, it will be the carriers that do not comply with the Commission's current Rules
9 that will benefit. These carriers are unlikely to follow any new anti-slamming regulation.
10 In addition, when certain consumers become aware that they will not be billed for their
11 toll usage if they claim to be a slamming victim, fraud will become uncontrollable. This
12 particular recommendation will not have any beneficial impact on slamming due to the
13 fraudulent practices it will create. Sprint believes that slamming complaints should be
14 investigated by a neutral third party. Upon completing this type of investigation if it is
15 determined that slamming did occur, the responsible company should receive the harshest
16 of penalties. The Commission should adopt a Rule that penalizes companies that truly
17 slam customers. However, this determination should be reached after a thorough
18 investigation performed by a neutral third party.

19

20 Q. PLEASE COMMENT ON MR. POUCHER'S SUGGESTION NUMBER 4.

21

22 A. Mr. Poucher's suggestion number 4 would require that PIC changes may be
23 implemented only after a written notice has been sent from he IXC to the customer and
24 when one of the following conditions has been satisfied: (a) written confirmation of said
25 change of carrier has been received from the customer; or (b) an incoming call has been

1 received directly from the customer or a three way call has been received including the
2 customer and the IXC to the customer's serving LEC requesting the change; or (c) an
3 inbound or outbound telemarketing call from the IXC requesting the change has been
4 verified by a third party recording accepting the change. The recommendation requiring
5 written confirmation from the customer prior to the implementation of a PIC change will
6 unnecessarily delay fulfillment of the customer's request for long distance service. This
7 recommendation will not serve the public interest, but instead will harm both customers
8 and long distance companies.

9 In recommendation (b), requiring an incoming call directly from the customer to the LEC
10 in order to implement the PIC change will continue to authorize the LEC as the
11 "gatekeeper" of the PIC change process. ~~As Sprint has already explained, it appears that~~
12 ~~at least some ILECs are abusing their gatekeeper responsibilities by using PIC disputes~~
13 ~~strategically to impede competition.~~

14 In (c), Mr. Poucher's recommendation to require a third-party recording would not
15 provide any benefit for the consumer. Obtaining a recording of the conversation between
16 the customer and an independent third-party verification vendor is an unnecessary
17 additional step that increases the cost of verification, and adds no additional security for
18 the customer. The "recording" offers no guarantee that the person authorizing the order is
19 the true customer with decision-making authority for the telephone service. Also, the
20 customer could easily deny that the recording is their voice. Additional verification costs
21 will undoubtedly be passed to the consumer in the form of higher rates. Unfortunately,
22 the carriers that are guilty of slamming are the same carriers that do not comply with the
23 current verification rules. It is difficult to expect then that they would pro-actively comply
24 with additional or more stringent rules. The FCC is proposing rule changes, and Sprint
25 believes that the best approach would be to enforce the existing rules and adopt new rules

1 only after the FCC has issued revisions. Carriers will be successful in complying with
2 regulations if both State and Federal Rules are consistent.

3

4 PLEASE COMMENT ON MR. POUCHER'S SUGGESTION NUMBER 5.

5

6 A. Mr. Poucher's suggestion number 5 would require that the Commission adopt a
7 specific rule that forbids the use of deceptive and unfair trade practices by
8 telecommunications companies regulated by the Commission. Sprint fully supports Mr.
9 Poucher in this recommendation. Carriers that employ sweepstakes and contests to entice
10 consumers to sign a disguised LOA and then do not bother to follow the Commission's
11 verification rules should be penalized.

12

13 PLEASE COMMENT ON MR. POUCHER'S SUGGESTION NUMBER 6.

14

15 A. Sprint supports suggestion number 6 to the extent that new applicants for certification
16 should be required to certify that the company intends to provide adequate facilities
17 including free inward toll calling for the company to receive and process customer
18 inquires. However, Sprint believes that the Commission should refrain from adopting
19 rules that mandate a specific level of service. Instead, Sprint recommends that the
20 Commission allow the consumer to drive service levels in a competitive market.

21

22 PLEASE COMMENT ON MR. POUCHER'S SUGGESTION NUMBER 7.

23

24 A. Mr. Poucher's suggestion number 7 proposes that the Commission adopt a new rule
25 requiring that all telecommunications companies subject to the rules of the Commission

1 shall also be subject to the rules that require LECs to answer 90 percent of the incoming
2 calls to the Business Office within 30 seconds. Sprint does not support mandated service
3 levels similar to what is mandated to the ILECs. Consumers in a competitive
4 marketplace have a choice of carriers, and if an IXC is not providing adequate service
5 levels to meet the needs of the consumers, they can take their business elsewhere. In the
6 past, the consumer did not have this same freedom for LEC service, and so it made sense
7 to mandate service levels to protect the consumer. Since there is already competitive
8 pressure in the long distance marketplace, Sprint does not believe that imposing standards
9 will add any protection for consumers. The same companies that are "slamming"
10 customers do not comply with existing verification rules, arguably they will not comply
11 with state mandated service level standards. For this reason, implementing more rules
12 will not resolve the problem. As stated previously in this testimony, Sprint believes that
13 service levels should not be mandated by the Commission, but mandated by the consumer
14 in a competitive market. Companies that are fraudulently slamming consumers should be
15 punished. Mandates put in place to ensure that a company intends to handle consumer
16 complaints does nothing to stop the slamming from occurring in the first place.

17

18 PLEASE COMMENT ON MR. POUCHER'S SUGGESTION NUMBER 8.

19

20 A. Mr. Poucher's suggestion number 8 asks that the Commission require LECs, ALECs
21 and IXCs to include the last name, address and telephone number in the transmittal orders
22 involving carrier changes. Under Mr. Poucher's proposal, LECs would be required to
23 reject orders for carrier changes when the originating carrier fails to provide the correct
24 last name and address and telephone number. In the past the LECs have required a match
25 on name and telephone number. What the industry found was that computers are not good

1 at matching names. As a result, the consumer experienced needless delay in fulfilling
2 requests for a change in telephone service provider. Consequently, the name match was
3 eliminated, and orders are now processed based on telephone number. Today, the LECs
4 send a confirmation back to the IXC electronically, and if the name and address do not
5 match Sprint's database, steps are taken to correct the data. Sprint believes this is the best
6 way to protect consumers from keying errors and at the same time to provide service
7 quickly to consumers desiring a change in long distance providers.

9 As previously stated in this testimony, the industry has already tried unsuccessfully to
10 include a name match on a carrier change request. This resulted in needless delay in
11 processing customer requests for a change in service providers. It does not make sense to
12 revert back to a process that was not in the best interest of the majority of consumers.

13
14 PLEASE COMMENT ON MR. POUCHER'S SUGGESTION NUMBER 9.

15
16 A. Mr. Poucher's suggestion number 9 would require LECs and all other billing agencies
17 to prominently display within the first two pages of the customer's bill the name of the
18 presubscribed local, local toll and interexchange carriers. Sprint agrees that the LECs and
19 all other billing agencies should be required to prominently display within the first two
20 pages of the customer's bill the name of the pre-subscribed local, local toll and
21 interexchange carriers, and not the name of the underlying facilities based carrier.
22 However, in testimony filed in this proceeding by Mr. J. Alan Taylor, Chief of the Bureau
23 of Service Evaluation, (Taylor Direct, Page 4, lines 21-25) claims were made that
24 underlying facilities based carriers facilitate many slams through their resale programs,
25 and that requiring the name and the certificate number of the carrier will help ensure that

1 underlying carriers do not provide their services to companies that are not certified. Sprint
2 does not bill for resellers utilizing the Sprint network. Sprint is required to include in its
3 tariffs, language that states that the customer reselling or rebilling regulated services must
4 have a certificate from the Commission. Requiring the name or certificate number of the
5 company billing for services on the LEC bill will provide customers with the knowledge
6 of who their provider is. Although there would be costs associated with enhancing the
7 billing systems for the LECs, IXCs, and billing vendors, it may be a more
8 attractive solution in terms of cost compared with requiring a separate CIC code for
9 switchless resellers. From a consumer standpoint, Sprint would argue that it is more
10 customer friendly to require the name and toll free number rather than the certification
11 number. As previously stated in this testimony, Sprint supports providing the name of
12 the company providing the service to the consumer on the bill. There would be costs
13 associated with changing billing systems for all parties involved, but it is an attractive
14 proposal for ensuring that consumers understand who is carrying the service.

15

16 PLEASE COMMENT ON MR. POUCHER'S SUGGESTION NUMBER 10.

17

18 A. Mr. Poucher's suggestion number 10 would require all LECs and ALECs to publish
19 annually a billing insert that explains a "PIC Freeze" and provides a customer with
20 instructions on how to obtain a "PIC Freeze". In addition, new customers would also
21 receive the notice with their first bill. Sprint believes that requiring LECs and ALECs to
22 publish information explaining the "PIC Freeze" would promote and encourage anti-
23 competitive behavior currently practiced by some ILECs. Sprint has already expressed its
24 concern regarding ILEC abuse of their gatekeeper responsibilities. There is already
25 substantial anti-competitive behavior to support relieving the ILECs of any and all

1 activities related to the PIC Freeze process. For example, Ameritech, on the eve of
2 implementation of "1+" intraLATA dialing parity, began a campaign throughout its
3 region that sought to capitalize on the slamming problem in the interLATA market to
4 induce its customers to freeze their entire accounts. Customers who responded to
5 Ameritech's inducement not only froze their selection of IXC but also froze Ameritech as
6 their provider of "1+". Sprints supports the idea that consumers should be
7 knowledgeable about their rights in obtaining a freeze on their carrier choice. However,
8 ~~as stated previously in this testimony~~, Sprint recommends that the entire PIC Freeze
9 process be administered by a neutral third party. By not only allowing, but also
10 mandating that ILECs administer the PIC Freeze process, puts the ILEC in the unique
11 position of being able to freeze an entire account to its services.

12

13 Q PLEASE SUMMARIZE YOUR TESTIMONY.

14

15 A. Sprint believes that the slamming problem must be controlled and supports any
16 initiatives that would assist in eliminating this industry problem. Several of Mr.
17 Poucher's proposals would assist in this endeavor. However, several of Mr. Poucher's
18 recommendations would not resolve the slamming problem and may, in fact, harm
19 competition by authorizing ILEC control over IXCs. In this regard, Sprint cannot support
20 any proposal that maintains this status for ILECs. Sprint further requests that the
21 Commission not impose Rules that would relieve consumers of their financial obligation
22 to pay for service they have received. Any Rule that absolves this obligation would
23 increase the number of slamming complaints not reduce them.
24 Sprint believes that if the Commission decides to impose new Rules at this time, carriers
25 may find they are in jeopardy of non-compliance due to the fact that new State rules may

1 conflict with existing FCC Rules. The FCC is currently considering appropriate
2 regulation designed to minimize slamming. Although these rules may not have been
3 totally effective in bringing the problem under control, this may be due to the fact that the
4 FCC has not yet imposed the harshest of punishment for offending carriers. However,
5 Sprint recommends that the Commission refrain from implementing new Rules until such
6 time that the FCC completes its Rulemaking. If the Commission decides to proceed with
7 new State Regulations, Sprint requests that the Commission consider how these rules will
8 impact existing FCC regulation.

9

10 DOES THIS CONCLUDE YOUR TESTIMONY?

11

12 A. Yes.

1 Q (By Mr. Fincher) Do you have a summary of
2 your testimony?

3 A Yes, I do.

4 Q Could you give it, please?

5 A Madam Chairman and Commissioners, I want to
6 take the time to thank you for the opportunity to
7 speak with you today.

8 Slamming clearly affects consumers, the
9 industry, and each of you. Sprint takes very
10 seriously its role in ensuring that customers are
11 authorizing a change in service prior to submitting a
12 change. In fact, that's why I'm employed by Sprint.
13 It's my job to make sure that state and federal rules
14 are followed.

15 No telecommunications company that values
16 its name and reputation will deliberately engage in
17 slamming, because it's wrong. It makes absolutely no
18 sense to do so from a business or academic
19 perspective.

20 Slamming makes it more difficult to compete
21 in the marketplace because it destroys valued customer
22 goodwill. Slamming complaints also increase the
23 carrier's cost of customer service associated with
24 researching and handling the complaints, and slamming
25 has no lasting positive impact on company revenue

1 because slammed customers are eventually returned to
2 the carrier of their choice.

3 Again, Sprint takes this very seriously, and
4 in 1997, of the Sprint PIC changes in the state of
5 Florida, 99.991% were processed without a complaint
6 closed against Sprint.

7 We're obviously not here today to talk about
8 the majority of the Florida customers who chose to
9 make a change in long distance and did so without
10 experiencing issues. Sprint supports the only
11 obligation of the Commission and the Staff to
12 investigate customer complaints concerning slamming.

13 There are a number of situations that can
14 contribute to slamming, the slamming problem, ranging
15 from innocent and inadvertent mistakes by IXCs, ILECs
16 and ALECs to intentional fraud practiced by some
17 carriers or their marketing agents. From a customer's
18 perspective, slamming may range from buyer's remorse
19 or spouse's refusal to being misled about the process.

20 Sprint believes that the existing rules work
21 to curtail slamming if they are followed. If there
22 are carriers operating in Florida that are
23 intentionally not following the rules, Sprint believes
24 there will be even less compliance with more stringent
25 rules.

1 Instead, the same companies that are
2 following the rules today will make every effort to
3 comply with the new rules, increasing their costs of
4 doing business in the state of Florida. The
5 additional costs will in some way affect all Florida
6 customers.

7 Sprint has supported some of the proposals
8 made by Staff. I would like to highlight a couple of
9 areas of particular concern. Sprint opposes any rule
10 of absolving a customer of liability for services the
11 customer has used. We would expect that when a
12 customer picks up the phone to make a 1+ call, that
13 they intend to pay for the call and that they should
14 pay for the call.

15 Sprint opposes the rule of requiring an
16 audio recording of customer initiated calls or the
17 third-party verification process. Sprint believes
18 that the recording provides the customer no additional
19 protection, and what's at issue is the quality of the
20 conversation behind the call, either during
21 third-party verification or the customer initiated
22 call.

23 Sprint also feels strongly that in a
24 competitive environment service level standards should
25 not be mandated, but should be driven by the market.

1 And this concludes my summary.

2 MR. FINCHER: Madam Chairman, the witness is
3 available.

4 CHAIRMAN JOHNSON: Any questions?

5 MS. CASWELL: I do have a couple.

6 CROSS EXAMINATION

7 BY MS. CASWELL:

8 Q Kim Caswell from GTE. I notice that most of
9 your deletions went to allegations that the ILECs were
10 somehow manipulating the PIC change process to gain a
11 competitive advantage.

12 Now, given those deletions, might I also
13 infer that you're dropping your recommendation that
14 this Commission drop rules to, quote, "discourage ILEC
15 mishandling of the PIC change process," unquote?

16 A Can you ask the question one more time, the
17 last part?

18 Q Yeah. I'm just asking if you're still
19 recommending, given those deletions, that the
20 Commission adopt rules to discourage what you call
21 ILEC mishandling of the PIC dispute process.

22 A The PIC dispute or PIC change?

23 Q I'm sorry. PIC change process.

24 A Okay. I think that the current rules, what
25 Sprint is proposing is the current rules should be

1 followed. If there are -- whether an IXC makes a
2 mistake in processing a carrier change or an ILEC
3 makes a change in processing the carrier change, I
4 think those mistakes will happen.

5 So does that answer your question?

6 Q No, I don't think that does. Are you still
7 proposing that the Commission adopt any rules specific
8 to the ILEC's involvement in the PIC change process?
9 And I'm looking, in particular, at your direct
10 testimony if it would help you.

11 A I think that will help. Thanks.

12 Q Page 10, you're recommending that the
13 Commission assign the PIC change process to a neutral
14 third party and that the Commission adopt rules to, as
15 I said, quote, "discourage ILEC mishandling of the PIC
16 change process."

17 Your deletions seem inconsistent with those
18 recommendations now, and I'm just wondering if you're
19 dropping those recommendations?

20 A No. Sprint supports the idea that a neutral
21 third party should be put in place at a national level
22 to administer the PIC change process. And although I
23 deleted a lot of testimony where -- addressing your
24 concern, the issue still remains that in -- as the
25 market changes and we will now be in direct

1 competition with the ILECs for a customer base, Sprint
2 still feels strongly that a neutral third party should
3 be administering the whole PIC change process.

4 Q But you don't have any evidence, at least to
5 date, that any of the ILECs in Florida are somehow
6 manipulating the PIC change process to their benefit,
7 do you?

8 A No.

9 Q And just to clarify, you're making these
10 recommendations about the third-party administrator
11 only at the national level; is that correct?

12 A The recommendation is for all jurisdictions
13 that a third-party administrator would administer the
14 change process across all jurisdiction levels.

15 What I don't think would work is if we made
16 a proposal for just the state of Florida. It has to
17 be national in scope, and the industry would have to
18 get together to establish the rules and how the whole
19 process would work.

20 Q I see. Today isn't it true that most PIC
21 changes are received by the LEC through mechanized
22 means from the IXCs?

23 A Both from the IXCs and then also when
24 customers call --

25 Q Do you know what percentage --

1 A -- to the business office?

2 Q Do you know what percentage of PIC changes
3 are received from the IXCs rather than end users?

4 A No, I wouldn't know what percentage you
5 receive that way.

6 Q Do you agree that the vast majority are
7 received from the IXCs through mechanized means?

8 A I'm sorry. I don't know what percentage.

9 MS. CASWELL: Okay. That's all I've got.
10 Thank you.

11 CHAIRMAN JOHNSON: BellSouth?

12 CROSS EXAMINATION

13 BY MS. WHITE:

14 Q Ms. Buysse-Baker, Nancy White for BellSouth,
15 and I just have a few questions following up on
16 Ms. Caswell's.

17 On Page 7, Lines 1 and 2 of your direct
18 testimony, you state that the ILEC need only make the
19 PIC change requested by the customer and is free to
20 attribute the unauthorized PIC change to slamming by
21 the interexchange carrier.

22 Are you familiar with BellSouth's expedited
23 PIC switch-back service?

24 A Yes.

25 Q And are you aware whether in the use of that

1 service BellSouth attributes the PIC change as an
2 error to anyone?

3 A No, I do not know what is said during the
4 conversation with the customer.

5 Q On Page 15 of your -- excuse me -- Page 14
6 of your rebuttal testimony, Lines 23 through 25, and
7 Page 15, part of Line 1, you state that Sprint has
8 expressed a concern regarding ILEC abuse of their
9 gatekeeper responsibilities.

10 That concern I believe, was in some
11 testimony that you deleted. Are you interested in
12 deleting any of those sentences?

13 A Can I take a moment to look at it?

14 Q Sure.

15 A What lines? Specifically on Page 14?

16 Q Page 14, Lines 23 through 25 and part of
17 Line 1 on Page 15 of your rebuttal testimony.

18 A Is this testimony I was talking about the
19 PIC freeze process. Can you ask your question again?

20 Q Yes. Is that part of the testimony that
21 should be deleted, or do you feel that testimony
22 should stand, those two sentences?

23 A Can I go back and review exactly what I
24 deleted to make sure I'm not --

25 Q Sure.

1 A Would you like me to do that now?

2 Q Can you do that in just a few minutes?

3 A (Pause) I think, because there are two --
4 most of the testimony that I have deleted was not
5 referring to the PIC freeze process. I believe there
6 are two separate issues there, so I would like to hold
7 my testimony as written.

8 Q Okay. Let me ask you this. I know that you
9 go on on Page 15 of your rebuttal testimony to talk
10 about an abuse that you perceive on the part of
11 Ameritech.

12 Are you aware of any abuses on the part of
13 any ILECs in the state of Florida with regard to PIC
14 freezes?

15 A No.

16 Q And does that include Sprint's ILEC in
17 Florida?

18 A That's correct.

19 MS. WHITE: Thank you. I have nothing
20 further.

21 **CROSS EXAMINATION**

22 BY MS. CALDWELL:

23 Q Hi. I'm Diana Caldwell. Does Sprint
24 utilize any outside agents to market its services?

25 A Yes.

1 Q What's your company's policies when these
2 agents ask these potential customers when the person
3 they're asking for is not available?

4 A Whether it's a Sprint internal or external,
5 the guidelines that Sprint follows is that we should
6 obtain the person that we called, because we purchase
7 or we obtain those names; or a spouse.

8 Q So you will ask for someone and then if they
9 aren't home you'll say, well, is there a spouse, and
10 then you ask for those? So you don't ask if there's
11 another decision maker in the household?

12 A The first point of contact we'll ask for the
13 person's name on the account. Then we'll ask if
14 there's a spouse.

15 I am not sure, from a telemarketing side, if
16 we would go on to say "Are you authorized to make a
17 change on the telephone service?"

18 At point of verification if we make a call
19 to the customer's home to verify an order, we would
20 follow the same rule by asking for the spouse or the
21 decision maker and then asking the person "Are you
22 authorized to make a change on this telephone
23 service."

24 Q Can you describe our current procedures when
25 a customer claims your company has slammed them?

1 A I have a general knowledge. It's not my
2 expertise, my area of expertise. But from what I
3 understand of the process, if the customer says that
4 they were slammed, we would have to instruct them to
5 call the LEC because we cannot physically get them
6 switched back, and we would rerate calls to their
7 previous carrier.

8 Q Okay. Do you have -- when you hire the
9 agents or third parties to solicit customers, do you
10 have any provisions in your contracts that prevent
11 slamming?

12 A I'm not familiar with the telemarketing
13 contracts.

14 Q Now, you stated in your testimony that it
15 was your job to make sure that Sprint doesn't violate
16 any of the federal or state rules; is that correct?

17 A That's correct.

18 Q Are you familiar with all of the states'
19 rules or do you have a certain region you're an expert
20 in?

21 A I don't have one area, one region. I work
22 closely with the external affairs in each of the
23 different regions, so it's kind of a combined effort.
24 They forward any rule changes to me. And it's my job
25 to make sure that the third-party verification

1 processes are changed to comply with those rules, or
2 that they may get a ballot, the welcome package.

3 Q How many states would you say actually have
4 rules against slamming?

5 A You know, I don't want to guess. I have
6 looked at it and I have a matrix but I don't know what
7 percentage.

8 Q Can you say whether all states have some
9 rules against slamming?

10 A I don't believe all states do. In those
11 cases we would have referred to the FCC rules. The
12 federal.

13 Q My next question was going to be how many --
14 do you know how many of the states are consistent with
15 the FCC?

16 A Again, I don't know the percentage.

17 Q Okay. And can you give me an idea of how
18 many states might be different from each other?

19 A I'm sorry. I'm trying to sit here and think
20 through the different states where we have different
21 rules. Probably at this point less than ten come to
22 mind with their different rules from the federal.

23 Q All right. So really you're dealing with
24 possibly the FCC rules, and then ten state rules, so
25 with a total of about 11 different types of rules that

1 you have to go through.

2 A That might be a little misleading because
3 there are some places where a particular state's rule
4 might mirror the FCC rules, and then in one piece of
5 it it may differ.

6 Q Okay. So is it fair to say that you are
7 operating with inconsistent rules throughout the 50
8 states?

9 A With consistent rules?

10 Q Where the rules -- that you cannot have one,
11 let's say, one welcome package for all 50 states?

12 A That is true. We cannot.

13 Q And that all verification processes are not
14 consistent throughout the 50 states?

15 A That is true.

16 Q That all LOA requirements are not consistent
17 throughout the 50 states?

18 A Yes.

19 Q Okay. Do you believe that if a company
20 follows the verification procedures required by the
21 proposed rules that it will protect the company from
22 consumer fraud?

23 A I believe that if the company follows the
24 proposed rules, that there would be no cases where the
25 customer could claim they were slammed when they were

1 not.

2 Q Okay. Do you agree that if a company slams
3 a customer under the current rules that it does
4 receive revenues?

5 A I'm sorry, could you ask the question --

6 Q Do you agree that if a company slams a
7 customer under the Commission's current rules, that it
8 would receive revenues for that, for the calls that
9 that customer made during the time it was signed up
10 for that company?

11 A So you're asking me if today a customer is
12 slammed under the existing rules does the company get
13 the revenue.

14 Q That's correct?

15 A To my knowledge, yes.

16 Q And is it possible that a customer -- to
17 your knowledge as consumer complaint representative,
18 is it possible that a customer would not have made
19 calls if he knew that he was no longer with his
20 preferred carrier?

21 A I don't know.

22 Q Okay.

23 MS. CALDWELL: Thank you. That's all.

24 CHAIRMAN JOHNSON: Commissioners? Redirect.

25

REDIRECT EXAMINATION1
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25**BY MR. FINCHER:**

Q You were asked a couple of questions about whether or not your deletions changed your position on certain issues. Did your deletions change any position that you had with respect to any of your remaining testimony?

A No.

Q All your remaining testimony sets out Sprint's position on this issue; is that correct?

A That's correct.

Q And you were also asked a question about the Florida rules, about a customer that had been slammed, what he would pay for the service to the slamming carrier?

A Uh-huh.

Q Are you specifically familiar with the Florida rule?

A The existing one?

Q Yes.

A I've read it and, yes. Regarding verification, I'm very familiar.

Q Okay. Would you agree, subject to check, that it might be the difference between the rate charged by the slamming carrier and the other carrier?

1 **A** Yes.

2 **MR. FINCHER:** That's all I have.

3 **CHAIRMAN JOHNSON:** There were no exhibits.

4 **MR. FINCHER:** No exhibits.

5 **CHAIRMAN JOHNSON:** Okay. Thank you, ma'am.

6 You're excused.

7 (Witness Buysse-Baker excused.)

8 **MR. REHWINKEL:** Sprint-Florida calls Dwane

9 Arnold.

10 - - - - -

11 **DWANE R. ARNOLD**

12 was called as a witness on behalf of Sprint-Florida

13 and, having been duly sworn, testified as follows:

14 **DIRECT EXAMINATION**

15 **BY MR. REHWINKEL:**

16 **Q** Mr. Arnold, were you previously sworn?

17 **A** Yes.

18 **Q** Could you state your name and your employer

19 for the record, please?

20 **A** Yes. My name is Dwane R. Arnold, and I'm

21 employed by Sprint Corporation.

22 **Q** Mr. Arnold, did you cause to be filed

23 prefiled rebuttal testimony in this docket?

24 **A** Yes, I did.

25 **Q** Do you have any corrections or changes to

1 make to that testimony?

2 **A** Yes, just a couple of changes.

3 And I believe copies of those have been
4 distributed out. First of all, we need to withdraw
5 portions of the testimony related to the billing block
6 option that's been stricken from the issues being
7 discussed here.

8 **MR. REHWINKEL:** Madam Chairman, we've listed
9 those out. To save time, if we want to maybe identify
10 this as an exhibit, we've listed a matrix showing what
11 portions of the testimony, rather than go through all
12 of that.

13 **CHAIRMAN JOHNSON:** We appreciate that.

14 **MR. REHWINKEL:** Mr. Arnold has also passed
15 out just a strike and insert -- the pages are not
16 numbered but they are 20 and 21 of his testimony.

17 **WITNESS ARNOLD:** Yes.

18 **CHAIRMAN JOHNSON:** Okay. If at the
19 appropriate time we could just make this a composite
20 exhibit, if that would be easier.

21 **CHAIRMAN JOHNSON:** I think that would be
22 best.

23 **Q** **(By Mr. Rehwinkel)** With the changes listed
24 in these documents, Mr. Arnold, if I asked you the
25 questions contained in your prefiled rebuttal

1 testimony, would your answers be the same today?

2 A Yes.

3 MR. REHWINKEL: Madam Chairman, I ask that
4 the prefiled rebuttal testimony of Mr. Arnold be
5 entered into the record as though read.

6 CHAIRMAN JOHNSON: It will be so inserted.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
REBUTTAL TESTIMONY
OF
DWANE R. ARNOLD

Q. Please state your name and business address.

A. My name is Dwane R. Arnold. My business address is 4220 Shawnee Mission Parkway, Fairway, Kansas, 66215.

Q. By whom are you employed and what is your current position?

A. I am employed by Sprint Corporation as Manager - Regulatory Policy for Sprint's Local Telecommunications (ILEC) Division.

Q. Please describe your educational background and work experience.

A. In 1986, I received a Bachelor of Science degree in Accounting from Mid-America Nazarene University and in 1989 I received a Master of Science degree in Accounting from the University of Missouri, Kansas City. I have been employed by Sprint since 1990 where I held various

1 positions in the area of Billing and Collection product
2 management and contract negotiation for both Sprint's
3 Long Distance and Local (ILEC) Divisions.
4

5 Q. What is the purpose of your testimony?
6

7 A. The purpose of my testimony is to respond to direct
8 testimony previously filed by various parties regarding
9 proposed changes in the Florida Public Service
10 Commission's (Commission) rules in Docket Number 970882-
11 TI, on behalf of Sprint-Florida, Inc., I am also
12 preliminarily responding to the proposals contained in
13 the December 24, 1997 Notice of Rulemaking.
14 Specifically, I state Sprint's support for certain of the
15 rule proposals in this docket. I also provide reasons
16 why Sprint believes certain other proposed solutions are
17 not feasible or cost effective in the effort to prevent
18 slamming and offer alternatives where possible. Because
19 this Commission has proposed significant changes to the
20 rules at a late stage in the rulemaking and Sprint is
21 still in the process of evaluating the technical
22 feasibility and costs, it may be necessary to file
23 supplemental testimony or comments.
24

25 Q. Please explain the reason for separate testimony from

1 Sprint Communications Company Limited Partnership and
2 from Sprint-Florida.

3

4 A. Direct and rebuttal testimony provided on behalf of
5 Sprint Communications Company Limited Partnership and/or
6 Sprint-Florida, Inc. represents the position of Sprint
7 Corporation. Due to the fact this specific docket
8 pertains to issues that are, in many cases, unique to the
9 expertise and operating conditions of Sprint's Long
10 Distance Division (Sprint Communications Limited
11 Partnership) or to Sprint's Local Telecommunications
12 Division (ILEC) it was necessary and of added value to
13 provide testimony from both perspectives. While separate
14 testimony is being submitted in this docket, it should be
15 noted that the testimony in total is consistent with the
16 overall position of Sprint Corporation. Even so, each
17 division maintains separate "party" status in this
18 docket. In the remainder of my testimony, "Sprint"
19 refers to Sprint's ILEC operations in Florida, Sprint-
20 Florida, Inc.

21

22 Q. Please summarize Sprint's position.

23

24 A. Sprint requests that the Commission not issue a
25 rulemaking in this matter until the FCC issues its

1 revised slamming rules order in CC Docket No. 94-129.
2 However, if the Commission should decide to adopt new
3 slamming rules prior to the FCC rulemaking, the
4 Commission should consider that to the extent that
5 special additional and/or unique requirements are
6 implemented in Florida, those requirements will be a
7 factor which even responsible, viable and law-abiding
8 potential new entrants must include in deciding whether
9 or not they will compete in the Florida market.

10

11 If the Commission does adopt rules in this docket, Sprint
12 proposes that it take the following actions to address
13 the slamming and cramming problems.

14

15 First, the PIC change requirements in the proposed rule
16 25-4.118 should be implemented, except for the
17 requirement that customer signed post card be returned
18 and the requirement for inbound call verification.
19 Implementing this section of the proposed rule, which
20 places more stringent requirements on service providers
21 before PIC changes can be implemented, and eliminating
22 the use of deceptive and/or incentive LOAs, should help
23 mitigate slamming problems.

24

25 Second, regulatory and law enforcement agencies should

1 initiate aggressive prosecution of any provider using
2 deceptive and/or fraudulent methods for switching
3 customer's service providers or cramming.

4

5 Third, providers and the Commission should initiate
6 consumer education programs on these slamming and
7 cramming issues.

8

9 A fourth action should be taken only if the Commission
10 lawfully concludes that the bill block option/PIN number
11 measure is viable. If so, any rule adopted should give
12 a service provider an opportunity to demonstrate
13 implementation of internal mechanisms that effectively
14 reduce cramming complaints prior to the Commission
15 requiring costly implementation of the bill block option
16 or PIN mechanism.

17

18 The above actions should significantly reduce slamming
19 problems and avoid some of the more burdensome and costly
20 proposals that will ultimately increase costs to
21 consumers and result in processes and procedures which
22 could discourage competitors from marketing their
23 services in Florida.

24

25 Thus, while Sprint supports the Commission's efforts to

1 eliminate slamming, Sprint proposes that not all the
2 proposed rule changes be implemented immediately if at
3 all. Second, since many of the proposed rule changes
4 were just recently distributed, there has not been
5 adequate time or information provided for determining
6 technical specifications, capabilities and costs. As the
7 Commission must recognize, many of the recently proposed
8 rule changes will, if implemented, result in significant
9 system and operational impacts to LECs, ALECs and IXCs
10 which will take significant time to implement.

11

12 As the Commission continues to analyze the causes for
13 slamming and proceeds with rulemaking in light of the
14 testimony by the parties of record, Sprint requests that
15 the Commission only adopt the proposals supported by
16 Sprint until the results of implementing those proposals
17 on the slamming problems have been determined. If after
18 determining the effectiveness of those rule changes,
19 additional requirements are still deemed necessary, more
20 detailed proposals can be developed and cost/benefit
21 analyses completed. To ensure that any additional
22 proposals are technically feasible and cost effective,
23 the Staff should conduct workshops to better define
24 system requirements and technical capabilities. Without
25 such analysis there is significant risk of implementing

1 high-cost solutions that may result in very little if any
2 benefit and that could potentially result in
3 unanticipated negative side-effects (e.g., frustrate the
4 Commission's efforts to foster competition).

5

6 Q. What are the primary reasons for slamming complaints?

7

8 A. A significant percentage of all slamming complaints
9 result from subscribers (or family members of the
10 subscriber) signing inducements which are misleading
11 and/or deceptive. Others are the result of human error,
12 unscrupulous marketing agents, buyer's remorse or an
13 allegedly improper decision maker.

14

15 Q. Will the proposals you support address these slamming
16 complaint issues?

17

18 A. Yes. Swift and aggressive prosecution of unscrupulous
19 companies would be an effective deterrent. It should
20 also be a primary objective to prosecute the offenders
21 rather than penalizing the other industry service
22 providers by requiring them to incur additional costs
23 that will flow through to their customers.

24

25 Elimination of deceptive LOAs and the revised LOA

1 requirements in the proposed rule would address the other
2 slamming complaint issues. Effective PIC change
3 verification will allow companies and regulators to sort
4 out valid slamming complaints as well to assess
5 liability.

6

7 Q. In the direct testimony of Earl Poucher on behalf of the
8 Attorney General and Public Counsel, and J. Alan Taylor
9 on behalf of the Commission staff, there are arguments in
10 favor of the proposed bill blocking option that would be
11 offered by the LECs free of charge to customers upon
12 request. According to the direct testimony, this bill
13 block would prevent unauthorized charges (cramming) from
14 appearing on the end user's bill. What is Sprint's
15 position on this issue?

16

17 A. Cramming is a serious problem that needs to be fixed.
18 However, Sprint has serious concerns with the
19 Commission's proposed rule that LECs should be required
20 to implement a billing block option to our subscribers
21 with a personal identification number required to
22 override the block. First, it is not clear that such an
23 option is technically possible or if technically possible
24 what such a system would cost. Before such a process
25 could be implemented the process would need to be well

1 defined before technological capabilities and associated
2 cost could be determined. For instance, would the
3 consumer be required to provide the PIN number before a
4 call can be completed or charge generated (similar to
5 LIDB functionality)? Or would the consumer call the LEC
6 after a charge has been generated and upon provision of
7 the PIN number the LEC would then allow the charge to be
8 billed (i.e. on a "per charge" basis)? Also, once an
9 unscrupulous provider gets a PIN for a valid charge, what
10 would keep the provider from using the PIN for invalid
11 charges? These and many other technical and operational
12 issues need to be identified before a process can be
13 developed and the associated cost determined. There may
14 be instances where valid telecommunication charges are
15 generated by a consumer and those charges are billed
16 through the LEC; however, the consumer may not realize
17 the charge will be LEC billed and therefore not provide
18 a PIN. The result of such a situation could be large
19 volumes of unbillable valid charges that the LEC would
20 recourse back to the service provider. Also, as the
21 public becomes aware of the bill blocking option, there
22 will be a segment of the public who will take advantage
23 of the potential fraud opportunity unless there is an
24 effective up-front method of preventing charges in the
25 first place. Conceptually a PIN number process without

1 bill blocking could provide such a mechanism. However,
2 at this time Sprint has not had adequate time to say
3 whether a PIN number mechanism alone would be practical
4 in operation or even technically feasible.

5
6 Depending upon the specific requirements, the
7 implementation of the bill block option would potentially
8 require development of industry standards for the
9 exchange of billing/charge information and network
10 functionality to accept a PIN before completing the call
11 While Sprint cannot accurately project the cost for
12 Sprint LTD to implement the billing block option without
13 detailed technical standards, it is preliminarily
14 estimated the total cost would be at least \$600,000 which
15 does not include the cost of upgrading switching software
16 and operator service platforms to allow a PIN number to
17 be used. If there is a need for developing industry
18 standards, the time required to develop such
19 functionality could be one or two years before such an
20 option would be available to end users. Sprint has not
21 had sufficient time to evaluate any need to have
22 industry-wide standards.

23
24 In addition to the cost factors, the billing block option
25 could be very confusing to end users. It seems the

1 consumer may find it difficult to remember when the PIN
2 is required or, unless the PIN is required at the point
3 of call or charge generation, the LEC could be put in the
4 position of calling the consumer every time a charge
5 comes through for billing and rejects because the
6 customer did not provide notification of the PIN
7 authorizing the charges.

8
9 This proposed rule presents an opportunity for fraud that
10 would create an operational and regulatory nightmare
11 worse than the slamming issue itself. Over the past
12 several years the telecommunications industry has
13 experienced the creative methods people have used to
14 commit fraud and there is the real potential that these
15 PIN numbers could be the latest loophole resulting in
16 significant levels of fraud. For example, there is the
17 opportunity for a person to incur a charge and then
18 immediately call the LEC to order bill blocking or simply
19 change the PIN number, thereby preventing the charge from
20 ever being billed. The Commission needs to consider
21 potential problems associated with real-time PIN
22 activation/deactivation and billing lag. It may also
23 create a "black market" for PIN numbers to be bought and
24 sold similar to the way calling card numbers are
25 fraudulently used today. Also, once a company has the

1 consumer's PIN number, there is nothing that would
2 prevent that company from using the PIN number without
3 the consumer's authorization. In addition, this process
4 will not prevent the use of the PIN number by
5 unauthorized or non-decision makers within a family.
6 There could also be a significant level of complaints
7 developed because of disputes over whether or not the
8 customer actually provided the PIN number.

9
10
11 The bottom line on the bill blocking option in Sprint's
12 opinion is that it appears to be an extremely high-cost
13 proposal, that will result in higher charges to
14 customers, increase customer confusion, result in
15 additional fraud opportunities, and may not significantly
16 reduce the cramming problem. The Commission must have
17 convincing, competent evidence that the bill block option
18 is technically feasible, and, if so, that it will be
19 effective given the cost of implementation before
20 adopting such a requirement.

21
22 Q. Would Sprint like to recommend an alternative solution?

23
24 A. Yes. The Commission should first consider company
25 safeguards before requiring mandatory offering of bill

1 blocking. Before Sprint enters into a Billing and
2 Collection (B&C) contract with any IXC or clearinghouse,
3 we have attempted to exercise care to scrutinize the
4 services or programs being billed by the IXC or companies
5 served by the clearinghouse in an effort to ensure the
6 consumer is receiving and being billed for valid,
7 beneficial services. In 1997, Sprint denied seven
8 companies from billing charges on the LEC bill in Florida
9 because, in Sprint's opinion, the program contained
10 misleading information and/or the charges were likely to
11 result in a high number of customer complaints. In
12 addition, for those companies with existing B&C contracts
13 with Sprint, we have implemented a process whereby
14 customer complaints regarding unauthorized charges are
15 monitored and when the number of complaints for a
16 particular company reaches a certain low threshold, the
17 IXC or clearinghouse is contacted immediately to resolve
18 the issue. Generally, Sprint will begin taking action
19 when more than 15 or 20 similar complaints are received
20 regarding a company submitting alleged unauthorized
21 charges. If a viable corrective action plan is not
22 implemented within a reasonable time frame, Sprint blocks
23 all future billing from the specific company that is
24 submitting charges through a clearinghouse to Sprint. In
25 the event a clearinghouse continues to submit bills for

1 companies that submit unauthorized charges, Sprint has
2 the authority by contract to cancel the B&C agreement
3 with that clearinghouse. In cases where there is
4 evidence that a company is submitting
5 unauthorized/fraudulent charges, Sprint immediately stops
6 billing for those charges and then notifies the
7 clearinghouse after the fact. Sprint is very concerned
8 about how cramming negatively impacts its customers and
9 their perception of Sprint and is in the process of
10 developing even more stringent internal safeguards.

11

12 In addition to these internal safeguards, these
13 unscrupulous companies and their principals should be
14 criminally prosecuted. It is Sprint's opinion that
15 visible prosecution of one or two companies and their
16 principal(s) who fraudulently submit unauthorized charges
17 will deter future abuse of the LEC billing process and
18 the need for a billing block will be reduced. In any
19 event, Sprint is eager to cooperate with the FPSC,
20 Attorney General and/or law enforcement in this regard.

21

22 Q. In the event a consumer has been slammed, the proposed
23 rules state that charges for unauthorized provider
24 changes and all charges for the first 90 days or first
25 three billing cycles, whichever is longer, shall be

1 credited by the company responsible for the error within
2 45 days of notification. What is Sprint's position on
3 this issue?

4

5 A. Sprint strongly opposes any rule that would relieve
6 customers who claim to have been slammed of the duty to
7 pay for any of the charges for calls or other services
8 that were actually incurred by the customer during the
9 time they were assigned to an unauthorized carrier. When
10 customers intentionally receive the use and benefit from
11 a service, they should be required to pay for the
12 services received at the rates of their previous carrier.
13 Any rule that absolves a customer of their financial
14 responsibility only provides incentives for bogus
15 slamming complaints and PIC disputes for the purpose of
16 obtaining free services, thereby increasing the number of
17 customer complaints. This would not only result in more
18 complaints but it would become increasingly difficult and
19 burdensome to distinguish between valid slamming
20 complaints and unfounded slamming complaints.

21

22 It is Sprint's position that the consumer be made whole
23 by the slamming carrier by adjusting charges incurred
24 during the time they were assigned to an unauthorized
25 carrier to the level of charge they would have received

1 if they had remained on the carrier of choice, if the
2 unauthorized carrier charges are higher.

3
4 Notwithstanding the above, in the event it has been
5 determined that a consumer has been billed for
6 unauthorized or fraudulently submitted charges on the LEC
7 bill, and the consumer does not get satisfactory
8 resolution from the provider of the service, Sprint has
9 in place today a process whereby, in cases where the
10 customer appears to have meritorious claims, we will
11 issue a credit to the end user for all charges involved
12 in the dispute and the charge will be recouped back to
13 the service provider.

14
15 By ensuring Sprint's business office personnel are
16 informed and trained on how to properly handle such
17 consumer complaints, we believe Sprint's current process
18 meets the intent of the Commission to ensure consumers
19 are not disconnected or put into the treatment and
20 collection process for not paying unauthorized charges.
21 This docket has brought to light a very limited number of
22 instances where the process has not worked as well as
23 desired. Sprint is making an effort to prevent a
24 recurrence of these rare occurrences. We do not believe
25 it is prudent to mandate that all charges be removed from

1 the consumer's bill when the consumer receives the
2 benefit of the service.

3

4 Q. Generally, the LECs and IXC's commenting so far contend
5 that the addition of the certificate number on the
6 customer bill identifying the provider of a billed
7 service and the type of service will add little if any
8 value to interpretation of customer bills or prevent
9 slamming. Would you like to comment on this issue?

10

11 A. Yes. It is Sprint's policy that (ILEC) bills currently
12 display the name of each service provider and
13 clearinghouse on separate bill pages for all charges to
14 an end user. When a charge is submitted by a
15 clearinghouse to Sprint for billing, the name of the
16 underlying service provider is included on the bill in
17 addition to the name of the clearinghouse. Sprint
18 includes its toll-free number on the local portion of the
19 bill and the toll-free number of each service provider
20 and/or clearinghouse whose charges appear on our LEC
21 bill. There are a limited number of service providers
22 and clearinghouses that have contracted with Sprint to
23 perform customer inquiry on their behalf. In these
24 circumstances Sprint places its own toll-free number on
25 the service provider's bill page.

1 Based upon Sprint's experience, we agree with those who
2 have testified that adding the certificate number and
3 type of service to the bill will provide little if any
4 value, while adding significant cost to the LECs. Sprint
5 has estimated that the non-recurring cost of adding the
6 certificate number to our LEC bill would be at least
7 \$610,000. Adding the type of service to the bill would
8 create additional recurring and non recurring cost which
9 Sprint estimates could exceed the cost of adding the
10 certificate number, depending on how the information
11 would be required to appear on the bill. The current
12 bill format provides customers with a description of
13 charges which, in almost all cases, provides the customer
14 with sufficient detail to determine the type of charge
15 being billed.

16

17 Sprint requests that the Commission not adopt the
18 requirement that the certificate number and type of
19 service to be displayed on the bill. However, if the
20 Commission determines that this information should be
21 included on the bill, the Commission should identify
22 specifically what the bill should look like and the
23 definitions of the various service categories. Then the
24 companies should be allowed adequate time to develop the
25 costs so that the Commission can make an informed

1 decision regarding the cost effectiveness of the proposed
2 change.

3

4 Q. In the direct testimony of both Jennifer Erdman-Bridges
5 and J. Alan Taylor, on behalf of staff, there are
6 comments in support of the Commission's proposed rule
7 that would require the customer to return a signed
8 postcard in the event PIC change verification occurred
9 via the welcome package option. Please provide Sprint's
10 reply to these comments.

11

12 A. As stated in the direct testimony of Sandee Buysse-Baker
13 on behalf of Sprint Communications, our experience with
14 the "Welcome Package" process would indicate that
15 implementation of this rule would result in customer
16 confusion and cause unnecessary delays in the PIC change
17 process resulting in customer dissatisfaction and make it
18 more difficult for competitive providers to enter the
19 market and win customers. In addition to the delay in
20 PIC changes created by the mailing process, Sprint
21 believes there would be a large percentage of consumers
22 (intending to change providers) who would not return the
23 postcard for various understandable reasons such as
24 forgetting to send the card or simply not realizing the
25 card must be returned to effect the PIC change. Sprint

1 recommends that the current postcard verification option
2 remain unchanged.

3

4 Q. BellSouth, in the direct testimony of Jerry Hendrix on
5 behalf of BellSouth Telecommunications, Inc., states that
6 it does not support the application of verification
7 procedures to customer initiated calls. What is Sprint's
8 position on this issue?

9

10 A. Sprint agrees with BellSouth. While the FCC originally
11 ruled that telecommunications providers are required to
12 verify sales made as a result of customer-initiated
13 inbound calls, it has subsequently stayed the requirement
14 in light of petitions for reconsideration by Sprint and
15 others pointing out that the imposition of a verification
16 requirement with respect to such calls would impose
17 significant costs to remedy what all available evidence
18 suggests is a non-existent problem. Sprint is convinced
19 verification of customer-initiated calls will impose
20 substantial costs on carriers but will fail to
21 effectively address the root causes of slamming. Again
22 these costs will flow to customers and may prevent other
23 service providers from entering the Florida market.

24

25 Q. In the testimony of Earl Poucher, on behalf of the

1 Commission staff, it is recommended that the commission
2 adopt a rule that requires LECs to reject all PIC change
3 requests that do not have an exact name, address and
4 telephone number match. Does Sprint have any information
5 on how successful this process would be?

6
7 A. Sprint understands the reasoning behind Mr. Poucher's
8 recommendation that the Commission should require LECs,
9 ALECs and IXC's to include the last name, address and
10 telephone number in the transmittal of PIC change
11 requests and that the LECs should be required to reject
12 orders when the carrier fails to provide information that
13 matches the records of the LEC. In fact, in 1993, Sprint
14 (ILEC) considered a similar approach to minimizing PIC
15 change errors by rejecting PIC changes that did not match
16 name and address. Due to the fact such a matching
17 process requires an exact match, Sprint experienced a
18 significant percentage (greater than 50%) of valid PIC
19 change orders that were rejecting, causing unnecessary
20 delays in the PIC change process and customer
21 dissatisfaction. While in theory this process should
22 minimize errors in the PIC change process, the practical
23 application of such a process is not feasible. For
24 example, how many of you can precisely state how your
25 ILEC name and address appears on your ILEC bill?

1 Q. BellSouth, in its direct testimony, provided proposed
2 wording changes for Section 25-4.118 Local, Local Toll or
3 Toll Provider Selection for the Commission to consider.
4 Does Sprint support the proposed wording?

5

6 A. Yes. If the Commission decides to implement new rules
7 prior to the FCC rulemaking on the slamming issue, then
8 BellSouth's proposed wording changes are consistent with
9 Sprint's position.

10

11 Q. Please summarize the main points of your testimony.

12

13 A. Sprint supports efforts to address the slamming and
14 cramming problems. As stated above, improved PIC change
15 verification and prohibiting deceptive LOAs will most
16 effectively address slamming issues in a competitive
17 environment.

18

19 Sprint opposes the proposals that would require an
20 unauthorized provider to remove all charges billed to an
21 end user for a specified period. While Sprint recognizes
22 the inconvenience the customer may experience in a true
23 case of slamming, in most cases the customer received
24 service or made calls for which they are legally required
25 to pay. Requiring providers to remove all charges for up

1 to 90 days would result in additional alleged slamming
2 complaints to get the 90 days of free service. This
3 would create a more onerous and burdensome process of
4 segregating the valid from the invalid slamming
5 complaints.

6
7 Sprint opposes the Commission proposal that would require
8 audio recording verification of inbound customer-
9 initiated calls. There is evidence that suggests very
10 few slamming complaints result from inbound customer-
11 initiated calls and that the cost of implementing such a
12 requirement would far outweigh the benefits.

13
14 Sprint also requests that the Commission refrain from
15 implementing any proposed billing system changes until
16 after implementing the measures supported by Sprint and
17 then analyzing the underlying causes for any slamming and
18 cramming complaints. Then, if still deemed necessary,
19 proposed solutions could be and defined, and a detailed
20 cost/benefit analysis completed.

21

22 Q. Does this conclude your testimony?

23

24 A. Yes, it does.

1 Q (By Mr. Rehwinkel) Mr. Arnold, do you have
2 a brief summary of your testimony?

3 A Yes. A very, very brief summary.

4 In my testimony filed on behalf of
5 Sprint-Florida I identified those proposed rule
6 changes and other alternatives that we believe will be
7 effective in minimizing the slamming and cramming
8 complaints in Florida.

9 In addition, I provided reasoning why Sprint
10 supports that some of the proposed rule changes are
11 ultimately not in the customer's best interest, and we
12 request that the Commission not implement these rules,
13 at least until further analysis of cost and benefits
14 can be completed. Obviously, the Commission rules are
15 aimed toward prevention of slamming, the causes of
16 which, for discussion purposes, I believe, easily fall
17 into four basic categories. One is the unintentional
18 error, such as a keying error. The second would be as
19 household dispute or buyer's remorse. Third would be
20 a purposeful and intentional change of a PIC without
21 authorization, which would include misleading,
22 deceptive marketing techniques. And then, finally,
23 the issue of unauthorized charges submitted to a
24 customer with no PIC change associated with that, an
25 issue that we described in this hearing as cramming.

1 Sprint-Florida is convinced that the thread
2 of swift and aggressive criminal prosecution,
3 including fines, is an effective deterrent to
4 companies that otherwise engage in fraudulent
5 activities to obtain revenues.

6 Sprint is confident that other activities
7 and proposed rules would be effective in preventing
8 slamming. Examples would include eliminating
9 fraudulent or deceptive marketing techniques requiring
10 third-party verification of outbound telemarketing
11 calls, consumer education programs, and, finally,
12 removing the financial incentive for those companies
13 who engage in slamming similar to the Section 258
14 liability section in the Telecommunications Act of
15 1996.

16 And finally, on the other hand,
17 Sprint-Florida is not persuaded that some of the
18 proposed rules are ultimately in the best interest of
19 customers in Florida, for reasons outlined in my
20 testimony. Specifically Sprint requests that the
21 Commission not implement rules that would require
22 number one, in-bound call verification; number two,
23 the return of a signed postcard to effect a PIC
24 change; that the certificate number be placed on the
25 bill, and fourth, that customers be relieved of the

1 responsibility to pay for services received other than
2 to adjust the charges to the level that would have
3 been charged if they had remained with their previous
4 carrier. That concludes my summary.

5 **MR. REHWINKEL:** Mr. Arnold is available for
6 questioning. But first, can we have the three-page
7 corrections exhibit be identified as a Composite
8 Exhibit 13?

9 **CHAIRMAN JOHNSON:** Mark it as Composite 13.
10 (Composte Exhibit 13 marked for
11 identification.)

12 **CROSS EXAMINATION**

13 **BY MR. NELSON:**

14 **Q** Rick Melson representing MCI.

15 Are you familiar with Mr. Poucher's
16 recommendation that a procedure be put in place where
17 an IXC would have to submit name, address and
18 telephone number that matched incumbent or matched the
19 ILEC's records in order to implement a PIC change?

20 **A** Yes, I'm familiar with that.

21 **Q** Could you briefly summarize what Sprint's
22 experience with that type of a matching program has
23 been?

24 **A** Yes, I can.

25 Back in 1993, when Sprint was -- Sprint ILEC

1 was in the process of merging with the Centel ILEC
2 operations, at that time Centel did do a name, address
3 and telephone number match on the PIC change process.
4 What we found as we merged with the company -- it was
5 something that we were interested in -- when I say
6 "we", the Sprint ILEC was interested in implementing.
7 However, when we talked with the carriers that Centel
8 provided service to in the way of PIC change
9 processing, we determined that the carriers were very
10 dissatisfied, and the number of PIC errors that
11 resulted as a result of that edit that was in place.
12 And I believe in my testimony I reference the fact
13 that it was more than 50%. And that was based on just
14 some feedback I had received from those that were
15 involved at the time. But the percentage of errors
16 was very high in such a process.

17 Q When you say percentage of errors, you mean
18 the percentage of valid PIC change requests that were
19 being rejected?

20 A Yes, that is correct.

21 MR. NELSON: Thank you.

22 CROSS EXAMINATION

23 BY MS. WHITE:

24 Q Mr. Arnold, Nancy White with BellSouth. I
25 just have a couple of questions.

1 Do you believe that any rule change about
2 slamming should contain a definition of slamming?

3 A Yes, I do.

4 Q And why do you think that's important?

5 A I think it's important because as the
6 Commission looks at the punishment that would be
7 involved when slamming occurs, there's -- obviously as
8 we've heard in testimony throughout this hearing, that
9 there are many causes for what gets referred to as
10 slamming. And in order to accurately evaluate or
11 categorize slamming complaints, it's very important we
12 have a very clear definition of what slamming is.

13 Q What would be your definition of slamming?

14 A My definition of slamming would be the
15 purposeful and intentional change of a customer's
16 preferred carrier without their knowledge and consent.

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

19 **CHAIRMAN JOHNSON:** Okay. Mr. Beck. Staff.

20 **CROSS EXAMINATION**

21 **BY MS. CALDWELL:**

22 Q Hi, Mr. Arnold. I'm Diana Caldwell.

23 Do you believe that it's possible under the
24 current rules for an exchange company to bill for an
25 uncertificated carrier or an uncertificated entity?

1 A Yes, I do. In general it is possible, yes.

2 Q If it's a requirement to print the
3 certificate number on the bill in your opinion, will
4 that prevent an uncertificated company from billing a
5 customer?

6 A I think it's important to state that -- to
7 answer your question, the answer would be yes.
8 However, there are methods that could be implemented
9 that would be equally as effective, not taking it all
10 the way to printing the certificate number on the
11 bill.

12 The Sprint ILEC would have no problems with
13 ensuring that a customer -- a company has provided
14 their certificate to us prior to billing. It's the
15 extra step of putting it on the bill that the Sprint
16 ILEC believes does not -- at this point, anyway, we
17 don't feel it has an added value.

18 Q What is your procedure for when a customer
19 calls in and says that they are slammed. What's your
20 procedure at Sprint-Florida?

21 A We follow the expedited PIC switch-back
22 process, similar to the process that BellSouth and GTE
23 have implemented.

24 Q You stated in your summary, or gave a
25 definition of what you believed slamming should be.

1 Do you think that a customer who was slammed because
2 someone else -- I mean because there was an error in
3 -- a keypunch error, do you believe that that person,
4 from his perspective, believes he was slammed?

5 A Again, it would be -- dependent upon the
6 definition of slamming, I think from the customer's
7 perspective they've obviously been changed to a
8 carrier that they did not request. And if the
9 customer feels that's a definition of slamming, then
10 in the customer's opinion, yes, it would be slamming.

11 Q When Centel was using the name and address
12 verification procedure prior to Sprint merging, what
13 was the level of complaints while using that
14 procedure?

15 A I don't have that information.

16 Q Would you ensure that when you were billing
17 for, say, an AT&T reseller, that the reseller is
18 certificated?

19 A The answer to that question is yes. Any
20 reseller or underlying carrier that we would bill for
21 under our current existing policy would require that
22 that certificate number be provided to us.

23 Q Could you go into a little more detail.
24 What is your policy to determine whether or not a
25 company is certificated?

1 **A** Our policy simply is if a clearinghouse or
2 an underlying carrier requests that we do billing for
3 a company that provides services in Florida, we
4 request that a certificate number be provided to us
5 before we start billing that customer. So we actually
6 have a copy of the Florida certificate on file.

7 **Q** Do you know how long that policy has been in
8 place?

9 **A** Yes. We implemented that policy -- it was
10 under discussion during the last half of 1997, and we
11 implemented it beginning January of 1998.

12 **Q** All right. All right. Thank you.

13 **CHAIRMAN JOHNSON:** Commissioners?

14 **COMMISSIONER JACOBS:** I wanted to follow up
15 just briefly I may have missed it, I'm sorry, your
16 procedure for getting the certificate numbers for
17 parties that you bill is basically you require it when
18 you sign them up.

19 **WITNESS ARNOLD:** That's correct. Under our
20 billing and collection agreements that we have with
21 the carriers in the clearinghouses, in there there is
22 a requirement that the company that submits the charge
23 to us for billing be certificated. And as part of
24 that process, not only do we require it in the
25 contract, now as of January, going forward, we actually

1 require a copy of the certificate before we'll allow
2 billing charges to appear on our bill.

3 **COMMISSIONER JACOBS:** Do you find that to be
4 any kind of an impediment? Does it wind up causing
5 companies to not want to use you as an underlying
6 carrier?

7 **WITNESS ARNOLD:** The answer to that question
8 is no. I was involved in the management of the
9 billing and collection area for seven years, both on
10 the long distance and local side of the business, and
11 in those seven years I am not aware of a situation
12 where we denied billing because the company wasn't
13 certificated.

14 **COMMISSIONER JACOBS:** I guess what I'm
15 asking is do you find that companies avoid coming to
16 you because you impose that requirement on them?

17 **WITNESS ARNOLD:** No. No. Most companies
18 seem very willing to comply with that.

19 **CHAIRMAN JOHNSON:** Any other questions?
20 Redirect?

21 **MR. REHWINKEL:** Just quickly.

22 **REDIRECT EXAMINATION**

23 **BY MR. REHWINKEL:**

24 **Q** Mr. Arnold, are you aware of Sprint in
25 Florida ever having billed for an uncertificated

1 carrier?

2 A No, I'm not aware of that ever happening.

3 Q The change you mentioned or testified to
4 that occurred in January of '98, was that implemented
5 on a national basis?

6 A Yes, it was.

7 Q It was not in response to a problem in
8 Florida?

9 A No, no.

10 MR. REHWINKEL: That's all I have,
11 Commissioners.

12 CHAIRMAN JOHNSON: Exhibits. You had the
13 one composite.

14 MR. REHWINKEL: Move Exhibit 13.

15 CHAIRMAN JOHNSON: We'll show that admitted
16 without objection. Thank you, sir.

17 (Composite Exhibit 13 received in evidence.)

18 WITNESS ARNOLD: Thank you.

19 (Witness Arnold excused.)

20 - - - - -

21 CHAIRMAN JOHNSON: Anything else, Staff?

22 MS. CALDWELL: I think at this point, if
23 anyone wants to make comments -- the companies have
24 filed comments and if they want to make a short
25 statement we can go through and listen to those, or

1 they can rely on the comments that were filed in our
2 Composite Exhibit No. 1.

3 **CHAIRMAN JOHNSON:** What, Ms. Rule?

4 **MS. RULE:** Chairman Johnson is looking very
5 worried I might feel compelled --

6 **CHAIRMAN JOHNSON:** I'm getting very nervous.

7 **MS. RULE:** I have no idea why you might have
8 that concern.

9 What I was going to ask was whether we would
10 all have the opportunity to file posthearing comments
11 in writing.

12 **MS. CALDWELL:** Yes.

13 **CHAIRMAN JOHNSON:** Okay. So is there any
14 time line that we're dealing with here?

15 **MS. CALDWELL:** My understanding is that the
16 transcript for this hearing will be due, or will be
17 available on February the 23rd. Therefore, we have
18 briefs and posthearing comments would be due on March
19 the 16th.

20 Our next question comes up as to the extent
21 of the -- it's really a question to the
22 Commissioners -- the extent that we would have to
23 revise the Statement of Economic Regulatory Cost.

24 It's Staff's position that we will review
25 all of the comments on the record and go through and

1 propose, or draft a new rule and propose that to the
2 Commission. And our question is should Staff revise
3 that rule in any way from the currently proposed rule
4 that whether or not the Commission would want to have
5 a SERC that matched that?

6 **CHAIRMAN JOHNSON:** You have discretion?

7 **MS. CALDWELL:** Generally, Ms. Lewis has
8 provided a SERC that already addresses the lower cost
9 alternatives that have already been submitted, so that
10 I think under 120 we have met the requirements. The
11 only question is you really wouldn't have any kind of
12 cost information on anything that Staff proposed.

13 Now, what can happen is that Ms. Lewis can
14 take the information, cost information that has been
15 provided through the direct and rebuttal testimony,
16 for the different provisions that would be considered,
17 and could alter the Statement of Economic Estimated
18 Regulatory Cost to reflect those changes or those
19 statements already made. But I don't think they would
20 plan to send out a third data request. It's just too
21 difficult for the companies to turn that around, and
22 pretty onerous on them but it's up to you. If you did
23 want a third data request, I think ample time needs to
24 be given to the companies and to Staff to really look
25 at that.

1 **CHAIRMAN JOHNSON:** Commissioners, what's
2 your pleasure on that? I don't -- my gut is that if
3 we don't --

4 **COMMISSIONER DEASON:** I would think that we
5 would need a revised, updated estimate based upon
6 information that's in the record. But I don't
7 necessarily think we need to send out additional data
8 requests.

9 **COMMISSIONER CLARK:** I agree with that.

10 **MS. LEWIS:** That's what we had planned to
11 do. Also, let me clarify, too, that that Statement of
12 Estimated Regulatory Cost will address LCI's lower
13 cost alternatives that were not addressed previously.
14 But I promised them I would address those, and I'll do
15 that at the time the recommendation is filed.

16 **CHAIRMAN JOHNSON:** Very good. Anything
17 else?

18 **MS. CALDWELL:** I wanted to give you a time
19 line on that.

20 Looking at the calendar for Staff and the
21 Commission's calendar for agenda conferences, we would
22 try and have a Staff recommendation on May the 7th,
23 and it would go to the agenda on the 19th. We may be
24 able to bump that up a week to a Staff recommendation
25 on the fourth of -- April 30th, with a recommendation

1 going to the Commission on May the 12th. So we'll try
2 and get it to you as as soon as we can based on both
3 the calendar and what we have to work with.

4 **CHAIRMAN JOHNSON:** Thank you. Anything
5 else? Seeing none, this hearing is adjourned. Thank
6 you.

7 (Thereupon, the hearing concluded at 6:18
8 p.m.)

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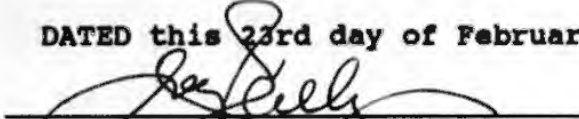
1 STATE OF FLORIDA)
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 2 COUNTY OF LEON) CERTIFICATE OF REPORTERS

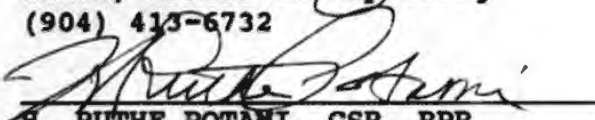
3 We, JOY KELLY, CSR, RPR, Chief, Bureau of
 Reporting and RUTHE POTAMI, CSR, RPR, Official
 4 Commission Reporters,

5 DO HEREBY CERTIFY that the Rule Hearing in
 Docket No. 970822-TL was heard by the Florida Public
 6 Service Commission at the time and place herein
 stated; it is further

7
 8 CERTIFIED that we stenographically reported
 the said proceedings; that the same has been
 transcribed under our direct supervision; and that
 9 this transcript, consisting of 678 pages, Volumes 1
 through 4, constitutes a true transcription of our
 10 notes of said proceedings and the insertion of the
 prescribed prefiled testimony of the witnesses.

11
 12 DATED this 23rd day of February, 1998.

13
 14 
 JOY KELLY, CSR, RPR
 Chief, Bureau of Reporting
 (904) 413-6732

15
 16 
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