

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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:
   
4 In the Matter of : DOCKET NO. 951232-TI
   
:
   
5 Dade County Circuit Court :
   
referral of certain issues in :
   
6 Case No. 92-11654 (Transcall :
   
America, Inc. d/b/a ATC Long :
   
7 Distance vs. Telecommunications:
   
Services, Inc., and :
   
8 Telecommunications Services, :
   
Inc. vs. Transcall America, :
   
9 Inc. d/b/a ATC Long Distance) :
   
that are within the :
   
10 Commission's jurisdiction. :
   
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VOLUME 1

Pages 1 through 143

PROCEEDINGS:

HEARING

BEFORE:

COMMISSIONER SUSAN F. CLARK  
COMMISSIONER JOE GARCIA  
COMMISSIONER E. LEON JACOBS, JR.

DATE:

Wednesday, August 19, 1998

TIME:

Commenced at 9:40 a.m.

PLACE:

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

REPORTED BY:

JOY KELLY, CSR, RPR  
Chief, Bureau of Reporting  
(904) 413-6732

DOCUMENT NUMBER-DATE

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FLORIDA PUBLIC SERVICE COMMISSION

FPSC-RECORDS/REPORTING

1 **APPEARANCES:**

2 **FLOYD R. SELF and ALBERT T. GIMBEL and JAMES**  
3 **B. MESSER, Messer, Caparello & Self, 215 South Monroe**  
4 **Street, Post Office Box 1876, Tallahassee, Florida**  
5 **32302-1876, appearing on behalf of Transcall America,**  
6 **Inc., d/b/a ATC Long Distance.**

7 **WESLEY R. PARSONS, Adorno & Zeder 2601 South**  
8 **Bayshore Drive, Suite 1600, Miami, Florida appearing**  
9 **on behalf of Telecommunication Services, Inc.**

10 **BETH KEATING, Florida Public Service**  
11 **Commission, Division of Legal Services, 2540 Shumard**  
12 **Oak Boulevard, Tallahassee, Florida 32399-0870,**  
13 **appearing on behalf of the Commission Staff.**

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**P R O C E E D I N G S**

(Hearing convened at 9:40 a.m.)

**COMMISSIONER CLARK:** Call the hearing to order and we'll ask Staff to read the notice.

**MS. KEATING:** By notice issued July 17th, 1998, this time and place has been set for a hearing in Docket No. 951232-TI, Dade County Circuit Court referral of certain issues in Case No. 92-11654.

**COMMISSIONER CLARK:** We'll take appearances.

**MR. SELF:** Good morning, Commissioners. Floyd Self, Elliott Messer and Tico Gimbel of the Messer Caparello & Self law firm, 215 South Monroe Street, Tallahassee, Florida, Suite 701. And we are appearing on behalf of Transcall American, Inc. d/b/a ATC Long Distance.

**MR. PARSONS:** May it please the Commission, Wesley R. Parsons of the firm of Adorno and Zeder, 2601 South Bayshore Drive, Suite 1600, Miami, Florida 33133, appearing on behalf of the defendant, Telecommunication Services, Inc. With me today is Mr. Joel Esquenazi; to my immediate left the principal of TSI, along with Mr. William Shulman to his left, a testifying expert, and Mr. Shulman's assistant, Mr. Ignacio Duquesne.

**MS. KEATING:** Beth Keating appearing for

1 Commission Staff.

2 COMMISSIONER CLARK: Are there any  
3 preliminary matters?

4 MS. KEATING: Just a few. First, Staff  
5 would like to go ahead and ask the Commission to take  
6 official recognition of all tariffs filed with the  
7 Commission applicable to these parties. And those are  
8 the tariffs for Transcall, for Telus and for TSI.

9 COMMISSIONER CLARK: Is there any objection  
10 of the Commission taking official notice of those  
11 tariffs?

12 MR. PARSONS: No objection.

13 MR. SELF: No objection.

14 COMMISSIONER CLARK: Then we will take  
15 official notice of the tariffs.

16 MS. KEATING: Also it's my understanding  
17 that there are certain deposition transcripts that the  
18 parties have stipulated may be moved into the record  
19 without objection. I suggest we go on and take those  
20 up now and have them --

21 COMMISSIONER CLARK: Let's go ahead and take  
22 those up. Is it TSI that has the majority of them?

23 MR. PARSONS: Yes, it is, Commissioner.

24 COMMISSIONER CLARK: Okay. I'll entertain a  
25 motion to stipulate them into the record, and you give

1 me the witnesses for which that is applicable.

2           **MR. PARSONS:** Ms. Commissioner, I would  
3 stipulate into the record the deposition transcripts  
4 of witnesses Mr. Joseph Holop, Ruddy McGlashan,  
5 Mr. David Resposo, Mr. Joseph Signorelli, Mr. Brian  
6 Sulmonetti and Mr. Douglas Metcalf.

7           **COMMISSIONER CLARK:** There's no objection to  
8 the depositions of those named witnesses being entered  
9 into the record in this matter; is that correct?

10           **MS. KEATING:** Could we have those names  
11 recited one more time?

12           **MR. SELF:** I think, Commissioner Clark, if  
13 perhaps we could go and give each one a separate  
14 transcript and exhibit number.

15           **COMMISSIONER CLARK:** That's fine. We'll  
16 give the deposition of Mr. Holop --

17           **MR. SELF:** Holop, H-O-L-O-P.

18           **COMMISSIONER CLARK:** That will be identified  
19 as Exhibit 1 and it will be admitted in the record.

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

22           Exhibit 2 will be the deposition of  
23 Mr. McGlashan, and it will be admitted in the record.

24           (Exhibit 2 marked for identification and  
25 received in evidence.)

1           The deposition of Mr. Resposo will be  
2 identified as Exhibit 3 and it will be entered in the  
3 record.

4           (Exhibit 3 marked for identification and  
5 received in evidence.)

6           The deposition of Mr. Signorelli will be  
7 identified as Exhibit 4 and it will be entered in the  
8 record.

9           (Exhibit 4 marked for identification and  
10 received in evidence.)

11           The deposition of Mr. Brian Sulmonetti will  
12 be identified as Exhibit 5 and it will be entered in  
13 the record.

14           (Exhibit 5 marked for identification and  
15 received in evidence.)

16           And, finally, the deposition of  
17 Mr. Douglas Metcalf will be identified as Exhibit 6  
18 and it will be entered in the record.

19           (Exhibit 6 marked for identification and  
20 received in evidence.)

21           Just for my clarification, is Mr. Metcalf  
22 still going to be testifying?

23           MR. SELF: Yes.

24           MS. KEATING: May I ask for a clarification?

25           COMMISSIONER CLARK: Yes.



1           **MS. KEATING:** In stipulating that these  
2 depositions may be entered, does that also include the  
3 exhibits attached to those depositions and their  
4 errata sheet?

5           **COMMISSIONER CLARK:** Mr. Parsons, is that  
6 your intention?

7           **MR. PARSONS:** Yes, it is, Commissioner.

8           **COMMISSIONER CLARK:** Okay. Is there any  
9 objection that the depositions and the exhibits and  
10 errata sheets attached thereto be part of those  
11 exhibits?

12           **MR. SELF:** We have no objection.

13           **MR. PARSONS:** No objection.

14           **MS. KEATING:** May I ask another question?

15           **COMMISSIONER CLARK:** Yes.

16           **MS. KEATING:** This regards the deposition  
17 transcript of Mary Jo Daurio. It's my understanding  
18 that there may be some agreement with regard to both  
19 of those deposition transcripts.

20           **MR. SELF:** We would have no objection to  
21 that.

22           **MR. PARSONS:** No objection.

23           **COMMISSIONER CLARK:** So the deposition of  
24 Mary Jo Daurio will be identified as Exhibit 7 and  
25 admitted into the record.

1           **MS. KEATING:** There are actually two  
2 deposition transcripts for Ms. Daurio. I suggest they  
3 be made a Composite Exhibit 7.

4           **MR. SELF:** Could I suggest they be separate,  
5 because the one, with its exhibits, is so huge, just  
6 to keep it straight.

7           **COMMISSIONER CLARK:** All right.

8           **MR. SELF:** If the 1994 Mary Jo Daurio  
9 deposition could be Exhibit 7, and that's the one that  
10 has the voluminous exhibits.

11           **COMMISSIONER CLARK:** The deposition and  
12 exhibits will be Exhibit 7. And what is the date of  
13 the next deposition?

14           (Exhibit 7 marked for identification and  
15 received in evidence.)

16           **MR. SELF:** Why don't we just call it the  
17 1998.

18           **COMMISSIONER CLARK:** That will be marked as  
19 Exhibit 8, and it will be admitted in the record as  
20 the deposition and the exhibits attached thereto and  
21 the errata sheet.

22           (Exhibit 8 marked for identification and  
23 received in evidence.)

24           **MR. SELF:** Commissioner Clark, we would like  
25 that Mr. Esquenazi's and Mr. Shulman's depositions

1 similarly be admitted.

2 MR. PARSONS: No objection.

3 COMMISSIONER CLARK: Okay. The deposition  
4 of Mr. Esquenazi will be identified as Exhibit 9 and  
5 admitted into the record; that includes the deposition  
6 exhibits and errata sheet.

7 (Exhibit 9 marked for identification and  
8 received in evidence.)

9 Exhibit 10 will be the deposition exhibits  
10 and errata sheet for Mr. Shulman and it will be  
11 admitted into the record.

12 (Exhibit 10 marked for identification and  
13 received in evidence.)

14 Anything else?

15 MS. KEATING: I think that only leaves one  
16 deposition that has not been entered into the record,  
17 and that is the deposition transcript from Mr. Sickle.  
18 Since we're on this course, would it be possible to  
19 stipulate that that one could be --

20 MR. SELF: We would have no objection.

21 MR. PARSONS: No objection.

22 COMMISSIONER CLARK: All right. The  
23 deposition, along with the exhibits and errata sheets  
24 of Mr. Dennis Sickle will be marked as Exhibit 11 and  
25 admitted in the record.

1           (Exhibit 11 marked for identification and  
2 received in evidence.)

3           **COMMISSIONER CLARK:** Any other matters we  
4 need to take up?

5           **MS. KEATING:** None that Staff's aware of.

6           **COMMISSIONER CLARK:** Mr. Self.

7           **MR. SELF:** Commissioner Clark, the only  
8 matter that I'm aware of our is our witness, Dennis  
9 Sickle, is having travel difficulties this morning.  
10 We expect him at 11:00 at the airport.

11           Since he's the last witness I don't  
12 anticipate us getting to him by 11, as much as that  
13 may be desirable. I just wanted to advise you of  
14 that. And we may ask that he and Mr. Metcalf switch  
15 their order on rebuttal such that Mr. Sickle would  
16 appear before Mr. Metcalf, but I need to talk to  
17 Mr. Sickle when he arrives.

18           **COMMISSIONER CLARK:** That's fine. Let me  
19 know.

20           **MR. SELF:** Thank you.

21           **MR. PARSONS:** I have nothing, Commissioner.

22           **COMMISSIONER CLARK:** I do have a question.  
23 Wa. there filed testimony from Mr. Merritt and  
24 Mr. Yeager?

25           **MR. PARSONS:** There was not, Commissioner.

1           **COMMISSIONER CLARK:** Okay. Are there any  
2 preliminary statements, opening statements that we've  
3 agreed to?

4           **MS. KEATING:** The parties did agree at the  
5 prehearing that they would like to offer opening  
6 statements.

7           **COMMISSIONER CLARK:** Was there a time limit  
8 put on it?

9           **MS. KEATING:** Five to ten minutes.

10          **COMMISSIONER GARCIA:** I thought I said five.

11          **MR. SELF:** I believe the record will show  
12 you said no more than five.

13          **COMMISSIONER CLARK:** Okay. Which party  
14 should go first?

15          **MR. PARSONS:** I believe Mr. Self should go  
16 first since he is the petitioner and is also putting  
17 on his witnesses first.

18          **COMMISSIONER CLARK:** Okay.

19          **MR. SELF:** Mr. Messer will handle our  
20 opening.

21          **COMMISSIONER CLARK:** Okay. Mr. Messer.

22          **MR. MESSER:** Good morning, Commissioners.  
23 My name is Elliott Messer and it's my responsibility  
24 and privilege to provide opening statement on behalf  
25 of Transcall American, Inc. the petitioner in this

1 matter.

2           Very briefly, as a matter of background,  
3 this matter is before the Commission pursuant to an  
4 order of the Circuit Court for the 11th Judicial  
5 Circuit in and for Dade County in which the Court  
6 stayed the proceeding and referred to this Commission  
7 all matters within the Commission's jurisdiction.

8           The Circuit Court action was commenced in  
9 1992 essentially by Transcall to recover monies owed  
10 by TSI for long distance services rendered. TSI is a  
11 reseller of long distance service.

12           TSI counterclaimed in that action alleging  
13 essentially breach of contract, improper billing and  
14 provisioning of services rendered to TSI. And it was  
15 for that reason that we believe the Circuit Court felt  
16 strongly that those matters involving rates and  
17 provisioning of services were within the jurisdiction  
18 of this Commission.

19           Briefly, the business relationship of the  
20 parties at the time it commenced, Transcall was a  
21 successor in interest to Telus. And so while we may  
22 hear here the names "Transcall" and "Telus," they  
23 should be taken more or less as one entity since Telus  
24 was merged with Transcall.

25           Transcall was a certificated IXC. It owned

1 its own switch and it owned its own billing system and  
2 was actively engaged in the long distance business.

3 In 1989 TSI was created by its principal,  
4 Joel Esquenazi, became a certificated IXC but had no  
5 telecommunications facilities; had no switch, no  
6 billing system, and was primarily created to serve a  
7 perceived niche in the market: The Hispanic community  
8 in Southeast Florida.

9 The evidence will show that TSI being  
10 without facilities would recruit and furnish the  
11 customers, primarily business customers, and would  
12 handle customer service. Transcall would render the  
13 actual telecommunications service, including 1+  
14 service, 800 service, dedicated access and calling  
15 card. Transcall prepared detailed bills to TSI  
16 customers and once a month would provide the bills to  
17 TSI. TSI would review the bills, if it so desired,  
18 put its own cover sheet on the bills, and mail to its  
19 customers. It's important to note that all bills were  
20 prepared in accordance with the TSI tariff, as it  
21 should have been.

22 All payments from customers would be made  
23 direct to TSI. In other words, Transcall furnished  
24 the service, TSI got the money. Now, simultaneously  
25 Transcall would invoice TSI and it would provide to it

1 computer printouts, which we have referred to as  
2 "greenbars" detailing every individual call made and a  
3 service of the summary rendered.

4           The parties agreed by contract, basically,  
5 that TSI's customers would be billed by Transcall --  
6 actually by TSI but the bills prepared by Transcall --  
7 in basically 30-second minimum and 1-minute rounding.  
8 While TSI, the reseller would be billed by Transcall  
9 in lesser increments, such as 6-second increments, and  
10 that's how TSI anticipated earning its money.

11           As the contract became implemented, it  
12 became clear to Transcall that this was its first  
13 reseller customer and that it would be extremely  
14 difficult, if not impossible, to make the  
15 modifications by hand required to invoice the reseller  
16 the on the basis of 6-second intervals. And it would  
17 be equally hard to do so on domestic traffic because  
18 the Transcall computer system was not set up to do  
19 that.

20           A discussion ensued between the parties.  
21 And you will hear testimony from both Mary Jo Daurio  
22 and from Dennis Sickle who were with the company, and  
23 are with the company at present; that the matter was  
24 taken up with the president of TSI, Joel Esquenazi,  
25 and the parties agreed that in lieu of billing TSI in



1 smaller increments, that TSI would be billed as its  
2 customers would be billed, but -- and in accordance  
3 with the tariff and the contract -- but a 40% discount  
4 would be given, not contained in the contract, off of  
5 the international billings, and a 15% discount would  
6 be given off of domestic.

7           The parties agreed and that was implemented.  
8 And for the record, that change was beneficial to TSI  
9 during the course of its involvement with Transcall to  
10 the tune of over \$500,000.

11           The evidence is going to show that from the  
12 beginning TSI was slow in its paying; that it demanded  
13 credits from Transcall often as a condition of  
14 payment.

15           The evidence will show that Mary Jo Daurio  
16 and others working with TSI took the request for  
17 credits in good faith on the assumption, and due to  
18 the representations, that credits requested by TSI  
19 were a result of granting credits to customers who had  
20 complained about the billing.

21           What we found during the course of  
22 discovery, and what the evidence will show, is that  
23 during this period of time TSI got \$170,000 in  
24 credits, but only gave 51,000 to its own customers.

25           Finally, in the fall and winter of 1991, TSI

1 stopped paying entirely, although the evidence shows  
2 its revenues from operations had risen to almost  
3 \$100,000 per month.

4 TSI was warned by Transcall that it couldn't  
5 continue to furnish service free, and the parties  
6 began to negotiate. During the negotiations, and in  
7 the late fall of the winter, December of '91, the  
8 evidence shows that TSI began negotiations with  
9 National Telecommunications Company, and signed a  
10 contract for the same service it was receiving from  
11 Transcall, December 13, 1991. Early 1992 TSI moved  
12 its customer base; migrated it over to National.

13 According to Doug Metcalf's calculations,  
14 who is an expert here on Transcall's behalf, by April  
15 1992, TSI was \$659,992 in arrears, and facing imminent  
16 cut-off. A settlement was offered for less than --  
17 around a third of that but was rejected. Today TSI's  
18 claim stands at \$659,000, plus interest, for a total  
19 of \$882,038.

20 TSI obviously disagrees and offers its  
21 expert Lopez-Levi Report. The report is, I think you  
22 will find, full of assumptions that do not depict or  
23 relate to industry standards.

24 It will be interesting to note that Doug  
25 Metcalf, the expert for Transcall, actually accessed

1 some raw call data that was provided to the Public  
2 Service Commission and did his study and determined  
3 there were no duplicate calls billed from the switch  
4 raw data.

5 Now, there's going to be conflicting  
6 testimony obviously. But the job is much easier for  
7 everyone, and we would gratefully acknowledge the fact  
8 that the Commission's own auditor, Ms. Kathy Welch,  
9 performed an outstanding and thorough audit.

10 When all of the dust settles, and when all  
11 the rhetoric ends, find that Ms. Welch, in her  
12 professional manner, determined that TSI owes to  
13 Transcall the sum of \$500,000, which sum does not  
14 include interest. Thank you.

15 COMMISSIONER CLARK: Mr. Parsons.

16 MR. PARSONS: Thank you, Commissioner.

17 COMMISSIONER GARCIA: Mr. Parsons, you'll  
18 note that the Tallahassee five minutes is a lot longer  
19 than in other places in our state.

20 MR. PARSONS: I hope it can be a little bit  
21 longer for me as well.

22 COMMISSIONER CLARK: But we're on time. Go  
23 ahead, Mr. Parsons.

24 MR. PARSONS: This lawsuit was originally  
25 brought in Dade County Circuit Court by Transcall

1 against my client as a collection lawsuit. Years ago,  
2 in the early part of this decade, that's apparently  
3 where Transcall thought it ought to be suing.

4 My client resisted, and I think that was  
5 unexpected. Mr. Esquenazi to my left is not the  
6 typical defendant in a Transcall lawsuit. While many  
7 others may have rolled over and paid their bill or  
8 simply gone out of business, Mr. Esquenazi took a  
9 different path. He saved his data. He saved his  
10 greenbars. He saved his invoices. He kept records,  
11 both in his own mind and in his business of what he  
12 perceived to be massive overbilling by Transcall. In  
13 fact, there's a small warehouse in Dade County where  
14 Mr. Esquenazi has been stocking greenbars since the  
15 beginning of his relationship with Transcall. There's  
16 over 50 boxes of greenbars, the computer printout, in  
17 there. That little warehouse weathered Hurricane  
18 Andrew, it weathered Mr. Esquenazi's business up and  
19 down as he had both steps forward and steps backwards  
20 in dealing with vendors. And those greenbars are  
21 still there today.

22 And the fact that Mr. Esquenazi did preserve  
23 the evidence of the overbilling these many years is  
24 the reason we're able to be here today and present a  
25 defense to Transcall's lawsuit. And our defense is

1 very simple: Massive billing irregularities.

2           Before I go into it, it might be useful to  
3 state something a little bit more specifically that  
4 Mr. Messer alluded to.

5           The Dade County Circuit Court did, indeed,  
6 refer this case to the Public Service Commission. The  
7 referral and Order drafted by Transcall says that  
8 "This action is hereby stayed. And Transcall's  
9 pending complaint and TSI's pending answer,  
10 affirmative defenses, counterclaims and third-party  
11 claims are hereby referred to the Florida Public  
12 Service Commission for review in appropriate  
13 proceedings based upon, and within, the FPSC's  
14 exclusive jurisdiction as provided by Florida Statute,  
15 Chapter 364."

16           We respectfully submit that what is before  
17 the Commission today is the issue of Transcall's claim  
18 for an amount owed and my client's claim of billing  
19 irregularities. Those comprised the complaint,  
20 counterclaim and the third-party claim. Nothing else  
21 is before this Commission. And that may be important  
22 later on when we get into Ms. Welch's audit.

23           My client and ATC operated pursuant to a  
24 private contract. It was not filed as a tariff. It  
25 was apparently not required at the time to be filed as

1 a tariff. It was simply a private contract, and can  
2 be interpreted as such according to Florida's common  
3 law rules of contract interpretation.

4           So if I might suggest one difference between  
5 this case and many other proceedings before this  
6 Commission, there is no tariff involved. It is a  
7 matter of private contract. Tariff standards, what  
8 Mr. Messer seems to be referring to as industry  
9 standards, do not necessarily apply because they are  
10 not in this contract.

11           Let me describe to you some of the billing  
12 irregularities my client has found. Foremost among  
13 them would be what we've called the 6-second  
14 irregularity. That is, my client was supposed to be  
15 getting billed in 6-second increments. He, himself,  
16 billed his customers in 1-minute increments. The  
17 swing between those two billing methods was part of  
18 his profit; something he was entitled to and  
19 contemplated by the parties.

20           Now, what was required by the contract was  
21 not what was done in practice. And that is one thing  
22 we're counterclaiming for today. Our expert report  
23 indicates that there is considerable amount due to  
24 Mr. Esquenazi because of the failure, the simple  
25 breach of a written contract, by Transcall to bill in

1 6-second increments.

2           Now, Transcall has an explanation for this.  
3 They say that instead of billing in 6-second  
4 increments, they gave Mr. Esquenazi a discount on  
5 international traffic and a discount on domestic  
6 traffic. But it doesn't appear in an amendment to the  
7 contract; it doesn't appear in a letter; in fact, it  
8 doesn't appear in any kind of documentation.  
9 Mr. Esquenazi says it didn't happen. He stands on his  
10 written contract. He's entitled to the 6-second  
11 billing advantage.

12           Also very important are facial  
13 irregularities in the bills. These turn out to be  
14 billing for duplicate calls, billing for overlapping  
15 calls that could not possibly have been made, and  
16 stuck clock billings; billings for time periods so  
17 long they could not conceivably have been an actual  
18 phone call, and were due to act -- instead due to  
19 hardware defects in the switch.

20           Again, our expert has done a sampling of the  
21 greenbars and invoices that Mr. Esquenazi has  
22 preserved and has come up with an amount that we  
23 contend is overbilling due to these factors.

24           Taking the 6-second billing irregularity  
25 together with the other billing irregularities, our

1 computation is Mr. Esquenazi actually owed, at most,  
2 at the end of the relationship, about \$180,000.

3           Now, you might say, well, you still owe  
4 money. Not true. The reason it's not true is that  
5 Mr. Esquenazi came to Transcall toward the end of the  
6 relationship and tendered his best estimate of what he  
7 owed, which was \$250,000; more than the amount we now  
8 know is owed. He made his good-faith effort to do his  
9 best, to pay the bill and it was rejected and that  
10 amount was not paid. And now we're before the  
11 Commission.

12           Mr. Nesser refers to the audit of Ms. Welch  
13 as supporting Transcall's position. We could not  
14 disagree more.

15           Ms. Welch found that, in fact, there were  
16 billing irregularities, and there was a breach of the  
17 parties' agreement. In fact, Ms. Welch found billing  
18 irregulars that we were not aware of and that we did  
19 not analyze in our own audit. And where she analyzed  
20 a point and we did not, and she came to a conclusion,  
21 we were by and large prepared to accept that. Where  
22 we do differ from Ms. Welch is on two issues, the same  
23 two I described earlier: The 6-second billing  
24 irregularity where Mr. Welch made no adjustment,  
25 apparently because she seems, in her own mind, to make



1 a credibility determination that Transcall witnesses  
2 are to be credited and my client is not, and, of  
3 course, that finding of fact is reserved to the  
4 Commission.

5 She also did not credit any amount for  
6 duplicate billings, for stuck clock billings or for  
7 overlaps even though it is quite clear that these  
8 occurred. So we differ from her report in those two  
9 regards.

10 I think the evidence will show at the close  
11 of the day that TSI was indeed overbilled in the  
12 amount set forth in our audit. The only audit, by the  
13 way, to have been undertaken, comprehensive audit.

14 I think the evidence will show that  
15 essentially the only way to upset our audit would be  
16 to go back to the computerized call detailed record.  
17 Now, as I'm sure you know, that computerized call  
18 detail record is not before the Commission because it  
19 has not been produced by Transcall, except as to four  
20 or five days output, which was made available to Staff  
21 in electronic form but not to my client, so we  
22 essentially can do nothing with it.

23 With that evidence not available, I would  
24 respectfully suggest that the Commission follow the  
25 findings of the Lopez-Levi Report, our auditor, and

1 determine that there was substantial overbillings  
2 resulting in amount due by TSI to Transcall of about  
3 \$180,000. Thank you.

4           **COMMISSIONER CLARK:** Mr. Parsons, I do have  
5 a question. Is it your position that there's been --  
6 there's evidence, and Mr. Messer mentioned it, in lieu  
7 of the 6-second -- being billed in 6-second  
8 increments, the 40% discount and 15% discount was  
9 given, is it your position that even if you got those  
10 discounts, you were still entitled to a 6% discount.  
11 And those are not to be taken in 6 seconds. The  
12 adjustments you have got are not to be, in effect,  
13 netted against what the 6-second might have produced?

14           **MR. PARSONS:** I think both discounts are the  
15 entitlement of my client. He got the 40% discount for  
16 being a customer that Telus wanted. He was their  
17 entree into the Hispanic market in Southeast Florida,  
18 and only one of two interexchange carriers --

19           **COMMISSIONER CLARK:** I appreciate all of  
20 that, but I just want to know, is it your view that in  
21 addition to the 40% discount and the 15% discount, you  
22 were entitled to be billed at the 6-second, and there  
23 would be no netting of any savings from those  
24 discounts.

25           **MR. PARSONS:** Yes.

1           **COMMISSIONER CLARK:** Okay.

2           **MR. SELF:** Commissioner Clark, obviously we  
3 believe that's not the case.

4           **COMMISSIONER CLARK:** I understand that. But  
5 I just wanted to be clear as to -- because it wasn't  
6 exactly clear to me in the testimony.

7           All right. Do you have anything -- all  
8 right. We're ready for our first witness.

9           What I'd like all of the witnesses to do is  
10 to stand up at one time. I'll swear you in at the  
11 same time and when Mr. Sickie gets here, we'll swear  
12 him in.

13                   (Witnesses sworn collectively.)

14           **MR. SELF:** Transcall would call Mary Joe  
15 Daurio.

16           **COMMISSIONER CLARK:** So I'm clear, are we  
17 taking direct and rebuttal at the same time?

18           **MR. SELF:** No, ma'am.

19           **COMMISSIONER CLARK:** All right.

20           **MS. KEATING:** To be clear, that's not quite  
21 applicable to Staff's witness.

22           **COMMISSIONER CLARK:** Okay. Then we take the  
23 witnesses as they are shown in the Prehearing Order.

24 All right. I'm clear now. Thank you.

25                   - - - - -



1 through MJD-9?

2           A     Yes, I do.

3           Q     Do you have any changes or corrections to  
4 any of those exhibits?

5           A     No.

6                   **COMMISSIONER CLARK:** We'll mark those as  
7 Composite Exhibit 12.

8                   (Exhibit 12 marked for identification.)

9           **MR. SELP:** And we would also move that  
10 Ms. Daurio's testimony be inserted into the record as  
11 though read.

12                   **COMMISSIONER CLARK:** It will be inserted  
13 into the record as though read.

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**I. INTRODUCTION**

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

**A: My name is Mary Jo Daurio. My business address is 1515 S. Federal Highway, Boca Raton, Florida.**

**Q: WHO ARE YOU EMPLOYED BY AND IN WHAT CAPACITY?**

**A: I am employed by WorldCom, Inc. as a manager in the IXPlus Development Group within the Information Services Department.**

**Q: ON WHO'S BEHALF ARE YOU APPEARING IN THIS PROCEEDING?**

**A: I am testifying on behalf of Transcall America, Inc. d/b/a ATC Long Distance ("Transcall"). Transcall was a subsidiary of Advanced Telecommunications Corporation ("ATC"), which was later acquired by WorldCom. When ATC acquired Telus Communications, Inc. ("Telus"), the Telus operations were folded into Transcall. Transcall continues today as a subsidiary of WorldCom.**

**Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

**A: The purpose of my testimony is to discuss the implementation of the July 7, 1989 Telus-TSI Agreement ("Agreement") by Telus and later ATC (a copy is attached to my testimony as Exhibit MJD-1). During the time that I was responsible for the day-to-day oversight of the Agreement, I worked, along with many others, to see to it that service was established for TSI's customers, bills were timely produced to both TSI and its customers, credits**

1 were issued to TSI when necessary, and TSI's payments were processed.

2 While I was responsible for this account, TSI was basically current in its

3 payments and there were no outstanding disputes or problems.

4 **II. BACKGROUND**

5 **Q: ARE YOU FAMILIAR WITH THE DISPUTE UNDERLYING THIS**  
6 **PROCEEDING BEFORE THE FLORIDA PUBLIC SERVICE**  
7 **COMMISSION?**

8 **A: I am familiar with certain parts of the dispute.**

9 **Q: HOW IS IT YOU ARE FAMILIAR WITH THIS CASE?**

10 **A: Beginning in August 1989, I was assigned by Dennis Sickle to be the**  
11 **manager of the TSI account. At that time I was the Manager of Order**  
12 **Administration in the customer service department, and Mr. Sickle was the**  
13 **Vice President of Customer Service and my immediate supervisor. I retained**  
14 **day-to-day supervisory responsibility over this account until approximately**  
15 **September 1990. Then, about February 1991, I was asked to reassume**  
16 **responsibility for the account since TSI had fallen behind in its payments to**  
17 **ATC. During the next six months I worked with Mr. Joel Esquenazi to bring**  
18 **the account current. While the TSI account was transferred to the carrier**  
19 **relations department in May 1991, I continued to work with TSI to complete**  
20 **the account payment arrangements we had worked out. When I finally left**  
21 **the account about the end of July 1991, TSI was again current in its**

1 payments. (Attached to my testimony as Exhibit MJD-2 are copies of  
2 documents reflecting these arrangements.)

3 **Q: WHO TOOK OVER THE ACCOUNT FROM YOU IN CARRIER**  
4 **RELATIONS?**

5 **A:** Clara Reynardus (now Clara Thompson) was assigned to the account.

6 **Q: WHY WAS RESPONSIBILITY FOR THE TSI ACCOUNT**  
7 **TRANSFERRED TO CARRIER RELATIONS?**

8 **A:** When Telus first undertook service to TSI, Telus was a carrier with limited  
9 facilities, and TSI was the first company to become a reseller of Telus. In  
10 early 1990 Telus was acquired by Advanced Telecommunications  
11 Corporation, which included Transcall America and Microtel, a carrier that  
12 had its own extensive network along with its own reseller customers. As the  
13 combined company moved forward, the carrier relations department handled  
14 all the reseller accounts and the customer service department was left to  
15 handle just ATC's own end user customers.

16 **Q: IS CLARA REYNARDUS THOMPSON A WITNESS IN THIS**  
17 **PROCEEDING?**

18 **A:** I wish she was, but no. She was seriously injured in an accident and is  
19 unable to testify.

20 **Q: MS. DAURIO, LET'S GO BACK TO THE BEGINNING -- WHEN**  
21 **WERE YOU FIRST INTRODUCED TO TSI?**



1       **A:**     It was some time around August, 1989. Dennis Sickle called me into his  
2             office and asked me to take over the day-to-day responsibilities for the TSI  
3             account from Stacy Acampora, who was moving on to another position  
4             within the company.

5       **Q:**     **WHAT WAS YOUR SPECIFIC CHARGE BY MR. SICKLE?**

6       **A:**     My job was to manage order entry, customer service, and collections related  
7             to the TSI account.

8       **Q:**     **DID YOUR JOB AT THAT TIME NORMALLY INCLUDE**  
9             **ASSIGNMENTS SUCH AS THIS?**

10      **A:**     No. TSI was Telus' first reseller account, so we had to create or modify a  
11             number of systems and processes in order to provide service to TSI and TSI's  
12             customers.

13      **Q:**     **DID YOU WORK ON THE TSI ACCOUNT BY YOURSELF?**

14      **A:**     Oh, no. I was the primary contact with TSI for service order implementation  
15             and production of the bill to TSI. However, there were numerous people in  
16             our Information Services ("IS") Department who generated the TSI customer  
17             bills, produced the greenbar summaries from which I generated the bill to  
18             TSI, and who worked on various technical issues. In my department, there  
19             were several employees who helped process service orders for the TSI  
20             customers. Finally, Mr. Sickle was occasionally involved in approving  
21             certain credits and resolving other implementation issues.

22                             **III. SERVICE TO TSI'S CUSTOMERS**

1       **Q: DID MR. SICKLE GIVE YOU A COPY OF THE TSI-TELUS**  
2       **AGREEMENT?**

3       **A: Yes. The document attached to my testimony and identified as Exhibit MJD-**  
4       **I was the document I received and which was used as the basis for**  
5       **implementing service to TSI.**

6       **Q: DID YOU HAVE ANY ROLE IN PREPARING OR DRAFTING THE**  
7       **TELUS-TSI AGREEMENT?**

8       **A: No.**

9       **Q: DID YOU READ THE AGREEMENT?**

10      **A: Yes, at the time I read the entire Agreement. Thereafter, I would periodically**  
11      **review the Agreement to resolve questions or to be sure we were doing what**  
12      **was required of us.**

13      **Q: WHAT IS YOUR UNDERSTANDING OF HOW SERVICE WAS TO**  
14      **BE PROVIDED TO TSI'S CUSTOMERS UNDER THE**  
15      **AGREEMENT?**

16      **A: The essence of the Agreement was that TSI was a pure reseller of Telus —**  
17      **which means that it had no facilities of its own. Thus, all service to TSI's**  
18      **customers was provided by the Telus facilities.**

19                The specifics of TSI's responsibilities as a reseller and our  
20      corresponding role in that process were not described in the Agreement.  
21      However, as a reseller, once TSI sold the customer, the customer would sign  
22      a letter of authorization ("LOA"). This LOA indicated that Telus would be

1 the customer's long distance carrier. TSI would then call Southern Bell and  
2 have Southern Bell switch the customer to TSI using the Telus PIC code.  
3 TSI would then fax to me or my staff a service order request form, and later  
4 give us the LOA. Examples of service authorization forms are attached as  
5 Exhibit MJD-3.

6 Once Telus received TSI's service request form, we would assign a  
7 customer number. We would enter into our switch the telephone numbers  
8 associated with the customer. In addition, we would enter into the reseller  
9 database the name, address, and telephone numbers (or "ANIs," the automatic  
10 number identification) of the TSI customer. If the customer requested 800  
11 or travel card service, we would also get these assignments, enter them into  
12 our system, and advise TSI. Once these steps were completed, the customer  
13 could make calls on our network.

14 **Q: HOW LONG DID THIS SET-UP PROCESS TAKE?**

15 **A:** We generally processed all orders on the same day that they were received.

16 **Q: WAS THERE A CHANGE OR DELETE PROCESS?**

17 **A:** Yes. For service order modifications — adding or deleting telephone  
18 number, travel cards, or 800 service, we followed the same basic process.  
19 TSI would fax us the service request, and we would make the necessary  
20 changes to implement the requested change.

1           If a customer canceled service, we would have to take the customer  
2 out of our switch and enter the necessary notations in the billing system  
3 database.

4       **Q: HOW LONG DID THE CHANGE OR DELETE PROCESS TAKE?**

5       **A: We usually processed changes on the same day that they were received. In**  
6 **fact, for service terminations, we would often initial and date the fax that TSI**  
7 **sent.**

8       **Q: DURING THIS SERVICE ORDERING PROCESS — PUTTING A TSI**  
9 **CUSTOMER ON THE SYSTEM, SUBSEQUENT CHANGES, OR A**  
10 **TERMINATION OF SERVICE — DID YOU OR YOUR STAFF HAVE**  
11 **ANY DIRECT CONTACT WITH THE TSI CUSTOMER?**

12       **A: No, absolutely not. Our job was to get them up and in service as quickly as**  
13 **possible. If there were any questions or problems, we contacted only TSI.**

14       **Q: SO HOW DID YOU HANDLE SERVICE PROBLEMS?**

15       **A: TSI would either call or fax the information to us and we would investigate**  
16 **and correct the problem.**

17       **Q: WHAT WERE THE TYPICAL TSI SERVICE PROBLEMS?**

18       **A: The most likely calls we would receive would be that a customer was not in**  
19 **the switch, 800 numbers were not working, some of a customer's ANIs were**  
20 **missing, or project accounting codes had not been included.**

21       **Q: HOW OFTEN DID YOU HAVE THESE PROBLEMS?**

22       **A: Not very often.**

1       **Q:    ONCE THE TSI CUSTOMER WAS IN THE SYSTEM, WHAT**  
2       **HAPPENED NEXT?**

3       **A:    The only other activity would be the production of the bills to TSI's**  
4       **customers.**

5       **Q:    HOW WAS THIS DONE?**

6       **A:    Since the TSI customers were PIC'd to us at Southern Bell and resided in our**  
7       **switches and billing system, the TSI customer used our long distance service**  
8       **just like one of our own customers. The difference was, of course, that they**  
9       **were TSI's customers and not ours.**

10      **Q:    WERE THERE ANY CONSEQUENCES OF THIS DIFFERENCE?**

11      **A:    Yes. One of the consequences of this difference was in the billing. For TSI's**  
12      **customers, we did not direct bill them. Rather, our IS Department would**  
13      **produce for each TSI customer an individual bill on plain white paper that**  
14      **included all of the call detail, summaries, taxes, and total due. Once these**  
15      **bills were printed out, someone in IS would call TSI to pick them up.**

16      **Q:    SO YOU DID NOT SEND OUT THE BILL TO TSI'S CUSTOMERS?**

17      **A:    That's correct. We did not send bills to TSI's customers nor did we collect**  
18      **any revenue from TSI's customers.**

19      **Q:    WHICH CARRIER'S NAME APPEARED ON THE BILLS**  
20      **PRODUCED FOR TSI'S CUSTOMERS?**

21      **A:    On the plain white paper bills we generated for TSI's customer, no carrier's**  
22      **name appeared on these bills.**

1       **Q:   HOW DID THE TSI CUSTOMER BILLS GET TO TSI'S**  
2       **CUSTOMERS?**

3       **A:   Once TSI picked up the bills, it is my understanding that TSI would review**  
4       **the TSI customer bills and create a summary or cover page showing TSI's**  
5       **name, the amount due, and whatever else TSI put on it. TSI would then send**  
6       **the completed bill to its customers.**

7       **Q:   DID YOU EVER SEE THESE COVER SHEETS PREPARED BY TSI?**

8       **A:   No, nor did I see the TSI customer bills we produced on the plain white paper**  
9       **since they were produced in Miami and directly given to TSI.**

10      **Q:   WERE THERE ANY OTHER MATERIALS GIVEN TO TSI WHEN**  
11      **THE PLAIN WHITE PAPER BILLS WERE DELIVERED TO TSI?**

12      **A:   Yes. At the same time, IS also would give to TSI an exact copy of the TSI**  
13      **customer bill on greenbar computer paper. Since TSI would send the plain**  
14      **white paper bill to TSI's customer, TSI needed a copy of the customer bill for**  
15      **its records. In addition to the plain white paper and greenbar customer bill**  
16      **copies, TSI also would receive from IS a summary report by customer on**  
17      **greenbar computer paper. I will discuss this report in more detail in the**  
18      **discussion of how we billed TSI.**

19      **Q:   DID TELUS OR ATC RETAIN ANY COPY OF THE TSI CUSTOMER**  
20      **BILLS?**

21      **A:   No, we did not.**

22      **Q:   WHY NOT?**

1       **A:**    There was no need to. We did not provide any customer support to TSI's  
2               customers, so we did not need to retain any TSI customer billing information.

3       **Q:**    **SO WHO PROVIDED CUSTOMER SUPPORT FOR THE TSI**  
4               **CUSTOMERS?**

5       **A:**    That was TSI's responsibility.

6       **Q:**    **DID CUSTOMER SERVICE AT TELUS OR TRASCALL EVER**  
7               **RECEIVE ANY CALLS FROM TSI CUSTOMERS?**

8       **A:**    No, not to my knowledge.

9       **Q:**    **HOW WERE THE TSI CUSTOMERS BILLED?**

10      **A:**    We put the TSI customers into our billing system at rates given to us by TSI.  
11               Over time, TSI had several different billing products. Whenever TSI had a  
12               new billing product, they would tell us the discount periods, billing  
13               increments, and rates, and we would put that product into our billing system.  
14               As you can see from the examples in Exhibit MJD-3, TSI would indicate  
15               which product applied to the customer, and we would assign the proper  
16               product code to the customer's account when we entered the TSI customer  
17               into the system.

18      **Q:**    **WAS THE PRODUCT INFORMATION GIVEN TO YOU**  
19               **CONSISTENT WITH TSI'S TARIFF?**

20      **A:**    I don't know, because we had no need to check the information against TSI'S  
21               tariff.

22      **Q:**    **DID YOU EVER SEE THE TSI TARIFF?**

1 A: No.

2 Q: DID YOU EVER SEE ANY OF THE TSI MARKETING  
3 MATERIALS?

4 A: No.

5 Q: SO YOU NEVER COMPARED THE TSI PRODUCT INFORMATION  
6 GIVEN TO YOU TO TSI'S TARIFF OR MARKETING  
7 LITERATURE?

8 A: That's right — we never checked what TSI told us against TSI's tariff,  
9 marketing literature, or what they told their customers. That was not our job.

10 Q: WERE THERE ANY OTHER RESPONSIBILITIES THAT TELUS OR  
11 ATC HAD WITH RESPECT TO THE TSI CUSTOMERS?

12 A: No.

13 Q: WITH RESPECT TO THESE OVERALL PROCESSES, DID THEY  
14 CHANGE OVER TIME?

15 A: No.

16 Q: WERE THERE ANY PROBLEMS IN UNDERTAKING THE  
17 TELUS/ATC RESPONSIBILITIES UNDER THE AGREEMENT?

18 A: Since Telus was entering a new area of the long distance business, there were  
19 numerous implementation issues that arose and which were addressed. These  
20 included getting the TSI billing products into our billing system, producing  
21 the TSI customer bills, etc.



1       **Q: WERE THERE ANY ONGOING DIFFICULTIES THAT YOU**  
2       **RECALL DURING YOUR MANAGEMENT OF THE ACCOUNT?**

3       **A: Aside from isolated implementation issues that were resolved when they**  
4       **arose, the only ongoing problem I recall was during the first year when some**  
5       **of the TSI customers received bills directly from Telus/ATC instead of TSI.**

6       **Q: CAN YOU DESCRIBE WHAT HAPPENED?**

7       **A: Because each TSI customer resided in our database with our customers, when**  
8       **we ran the bills the TSI customers were supposed to be split off. However,**  
9       **we eventually learned that if a TSI customer's information was also in our**  
10      **database as a current or former Telus/ATC customer, the system would treat**  
11      **the TSI customer's calls as our own. The result was the customer would**  
12      **receive a bill from us instead of TSI.**

13      **Q: WHAT DID YOU DO TO FIX THE PROBLEM?**

14      **A: I requested that IS make a change that would first pull off the TSI customer**  
15      **whenever we ran any bills. We also put an edit into the billing system to**  
16      **prevent a duplicate entry of an ANI. My Exhibit MJD-4 contains copies of**  
17      **my requests.**

18      **Q: WAS THE CHANGE YOU REQUESTED MADE?**

19      **A: Yes, it was done very soon after my request.**

20      **Q: DID THIS SOLVE THE DIRECT BILLING ISSUE?**

21      **A: Yes.**



1       **Q: DID THE AGREEMENT CONTAIN ALL OF THE RATES THAT**  
2       **TELUS AND ATC WERE TO USE TO CHARGE TSI?**

3       **A: Sort of. The Agreement contained specific rates for all types of calls except**  
4       **for international calls. For international calls, the Agreement said that we**  
5       **were to bill TSI's customers and TSI at the Telus international tariff rates but**  
6       **that we were to bill TSI in six second increments instead of 60 second**  
7       **increments.**

8       **Q: DID YOU BILL TSI THE RATES IN THE AGREEMENT?**

9       **A: Yes, with three exceptions.**

10      **Q: WHAT WAS THE FIRST EXCEPTION?**

11      **A: As I was preparing the initial bills for TSI, I realized that we would be unable**  
12      **to bill the international calls to TSI in six second increments. In order to**  
13      **comply with that provision of the Agreement, we would have to literally**  
14      **rerate and recalculate each and every international call. Since we had no**  
15      **means of performing this recalculation, TSI ended up with a better deal: a 40**  
16      **percent discount off of the total international billings to TSI's customers.**

17      **Q: WAS THIS CHANGE FOR THE BILLING OF THE**  
18      **INTERNATIONAL CALLS TO TSI AGREED TO IN WRITING?**

19      **A: No. I discussed the problem with Dennis Sickle, who later discussed it with**  
20      **Joel Esquenazi. Initially, we implemented a discount of 31 percent. Later,**  
21      **the discount for international calls was increased to 40 percent, and we made**

1 a retroactive adjustment to give TSI the benefit of the 40 percent from the  
2 beginning of the Agreement.

3 **Q: WHAT WAS THE SECOND EXCEPTION?**

4 **A: The second exception was due to some of the domestic usage not being billed**  
5 **in six second increments, because our billing system was set to record initial**  
6 **billing increments at a 30 second minimum. To address this issue, TSI was**  
7 **given a 13 percent discount for all domestic usage that was later increased to**  
8 **15 percent.**

9 **Q: WHAT WAS THE THIRD EXCEPTION?**

10 **A: From my review of the bills, TSI was given a further reduced rate for travel**  
11 **card services. This change occurred sometime around July 1990 when we**  
12 **implemented time-of-day rates that were lower than the single rate in the**  
13 **Agreement. You can see this change if you compare page the June 1990**  
14 **invoice to the July 1990 invoice in Exhibit MJD-5.**

15 **Q: NOW THAT YOU HAVE DESCRIBED THE SPECIFIC BILLING**  
16 **RATES APPLICABLE TO TSI, CAN YOU PLEASE DISCUSS HOW**  
17 **THE BILLS THEMSELVES WERE PRODUCED?**

18 **A: As I mentioned earlier, each month IS would produce a printout that we**  
19 **would refer to as the greenbar summary. This document reflected the total**  
20 **calls, minutes, and billing for each customer for each category of calls (for**  
21 **example, intrastate, interstate, international, and 800), with the minutes**  
22 **calculated in the billing increments applicable to TSI (with the three**

1 exceptions that I have the previously discussed). At the bottom of the report,  
2 it showed the aggregate totals for calls, minutes, and billing. An example of  
3 the greenbar summary is attached to my testimony Exhibit MJD-6.

4 Each month, I would take the greenbar summary and, on a personal  
5 computer, retype the usage data by category, multiply the usage by the  
6 applicable rate, compute the total for each line, apply any discounts and  
7 credits, subtract any payments, and calculate the total due. A complete set of  
8 the bills rendered by ATC to TSI is attached to my testimony as Exhibit  
9 MJD-6. Initially, the bills I produced appeared in the format that appears on  
10 the very first 1989 invoice to the August 1990 invoice of Exhibit MJD-7.  
11 Later, after Telus was acquired by ATC, we slightly changed the appearance  
12 to the format that is reflected beginning with the September 1990 invoice of  
13 Exhibit MJD-7. Finally, there were two bills for March and May 1992,  
14 contained in Exhibit MJD-7, that used a different format than all of the other  
15 bills.

16 **Q: WHY DID YOU PREPARE THE TSI BILLS ON A PERSONAL**  
17 **COMPUTER?**

18 **A: As I said before, prior to TSI, Telus did not have any reseller customers.**  
19 **Therefore, our billing system had never been designed to bill resellers and**  
20 **their customers. In implementing the billing to TSI, it was decided that the**  
21 **best way to produce a bill would be to use the greenbar summary with us**  
22 **typing out a manual bill.**

1       **Q:    WHAT WAS THE USUAL BILLING CYCLE?**

2       **A:    We operated on a calendar month billing cycle. Since the cycle closed on the**  
3       **last day of the month, we would usually receive the greenbar summaries**  
4       **about seven to ten days after the close of the month. Once we received the**  
5       **greenbar summary, we would review it and then enter the necessary**  
6       **information into the computer to produce the bill. Once the bill was**  
7       **completed, we would send it to TSI.**

8       **Q:    ARE THERE ANY OTHER MATTERS WITH RESPECT TO THE**  
9       **PRODUCTION OF THE TSI BILL?**

10      **A:    No, except for an occasional call to see if the bills were ready, our**  
11      **conversations were brief. Mr. Esquenazi called me for credits, and I called**  
12      **him for payments.**

13      **Q:    WHAT WAS YOUR EXPERIENCE WITH TSI'S PAYMENT**  
14      **HISTORY?**

15      **A:    Obtaining payments from TSI was always a struggle. From the beginning,**  
16      **I frequently spoke with Mr. Esquenazi to obtain payments for our bills.**  
17      **Basically, in order to obtain payments, Mr. Esquenazi would either**  
18      **unilaterally take credits each month when he made a payment or he would**  
19      **require the issuance of credits before he would make any payment. In order**  
20      **to keep the account relatively current, during the first year or so when I had**  
21      **responsibility for the account, I approved his requested credits each month,**

1 or obtained Mr. Sickie's approval if necessary, in order to obtain TSI's  
2 payments on the account balance.

3 **Q: WHAT WAS TSI'S BASIS FOR REQUESTING CREDITS AS A**  
4 **CONDITION FOR PAYMENT?**

5 **A: TSI would claim that there were problems with the billings to his customers.**

6 **Q: DID TSI EVER ELABORATE ON THESE PROBLEMS OR PROVIDE**  
7 **YOU WITH ANY DOCUMENTATION TO SUBSTANTIATE ITS**  
8 **CLAIMS?**

9 **A: In the beginning, because the size of the requested credits was small, I would**  
10 **approve his requested credits. Over time, as the size of the billings increased,**  
11 **and his requests for credits increased, I more frequently asked him to**  
12 **document his credits. What he would produce would be copies of the**  
13 **greenbar with calls highlighted. In the end, I gave him everything he asked**  
14 **for except \$10,000 that related to the balance due on the February 1991**  
15 **invoice. This is reflected on page 3 of Exhibit MJD-2.**

16 **Q: WHY DID YOU GIVE HIM THE CREDITS?**

17 **A: As I said before, it became very apparent to me that the only way we would**  
18 **ever receive any payment from him would be to provide him with further**  
19 **discounts in the way of credits.**

20 **Q: WHAT DID YOU DO ABOUT THE ISSUES UNDERLYING HIS**  
21 **CREDIT REQUESTS?**

1       **A:**    To the extent TSI could identify and document a problem, we would look  
2                   into it and take the necessary action to fix it. As I previously discussed, TSI  
3                   raised with us the fact that ATC was directly billing some TSI customers.  
4                   We investigated that situation, identified what was causing it, and  
5                   implemented two fixes to the billing system.

6                   On the other hand, any complaints he had regarding billing for  
7                   incomplete or unanswered calls simply was something that ATC could not  
8                   fix because the problem was not created by ATC. There's no disputing the  
9                   fact that unanswered or incomplete calls might be billed -- this was a  
10                  limitation of the technology of the time because the local exchange  
11                  companies did not universally provide hardware answer supervision like they  
12                  do today. For calls that did not have hardware answer supervision, only the  
13                  customer can tell you for certain whether it was an incomplete call. Thus,  
14                  this situation was an inherent part of the business.

15       **Q:**    **DURING THE INITIAL PERIOD IN WHICH YOU WERE**  
16                   **RESPONSIBLE FOR THE ACCOUNT, WHAT WAS THE NET**  
17                   **EFFECT OF THESE CREDITS AND PAYMENTS?**

18       **A:**    I felt TSI was a satisfied customer. If you look at Exhibit MJD-8, which is  
19                   a copy of the monthly accounting I kept for the TSI account, when I left the  
20                   account in September 1990, TSI was basically current in its payments to  
21                   ATC. I believe that we had resolved each and every issue for TSI.

22       **Q:**    **WHAT HAPPENED WHILE YOU WERE OFF THE ACCOUNT?**



1       **A:**    I do not know what was happening during that period, but I do know that TSI  
2               did not made any payments during my absence. See Exhibit MJD-8.

3       **Q:**    **WHEN YOU WERE PUT BACK ON THE ACCOUNT IN FEBRUARY**  
4               **1991, WHAT ACTION DID YOU TAKE?**

5       **A:**    I spoke with Mr Esquenazi at TSI to find out why he had not made any  
6               payments. He said that he had the same billing and improper call problems  
7               as before. I asked for documentation, and he produced several boxes of  
8               greenbars. I reviewed the highlighted calls and we issued a credit of  
9               \$21,581.73. In addition, we also determined that TSI was entitled to an  
10              additional credit for international calls for his first bill in 1989 through June  
11              1990 of \$21,375.85.

12       **Q:**    **DID MR. ESQUENAZI AGREE WITH THESE CREDITS?**

13       **A:**    No, he believed that he was entitled to an additional credit of \$10,000. We  
14               agreed that I would hold \$10,000 as an unsettled dispute. Then we agreed that  
15               he would pay all of the remaining \$154,432.65 outstanding balance as  
16               reflected on the February bill pursuant to a payment schedule continuing until  
17               June while staying current in his new billings. If he met this schedule, we  
18               would discuss the unsettled \$10,000 credit.

19       **Q:**    **DID MR. ESQUENAZI AGREE TO THIS SCHEDULE?**

20       **A:**    Yes, Exhibit MJD-9 contains copies of the correspondence leading up to the  
21               agreed payment schedule.

22       **Q:**    **WHAT WAS THE RESULT OF YOUR EFFORTS?**



1           the account in mid-1991, all of TSI's concerns had been met and TSI was  
2           current in its payments.

3       **Q:   DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

4       **A:   Yes.**

1           **Q**        **(By Mr. Self) Ms. Daurio, do you have a**  
2 **brief summary of your direct testimony?**

3           **A**        **Yes, I do.**

4           **Q**        **Would you please provide that at this time?**

5           **A**        **My direct testimony discusses some**  
6 **background information to the TSI-Transcall**  
7 **relationship, how service was provided to TSI's**  
8 **customers and how service was provided to TSI.**

9                   **My role in this process was to implement the**  
10 **agreement. It was to make the business relationship**  
11 **successful. We went out of our way to, indeed,**  
12 **provide TSI with every opportunity to grow its**  
13 **business. We resolved the day-to-day implementation**  
14 **problems when they arose. We implemented computer**  
15 **changes when necessary. We issued credits as**  
16 **appropriate. We resolved the billing problems and we**  
17 **obtained payment.**

18                   **At the time I turned over the account in**  
19 **mid-1991, all outstanding issues raised by TSI had**  
20 **been resolved to their satisfaction, and TSI agreed to**  
21 **the outstanding balance, less \$10,000, I held in**  
22 **reserve as a disputed amount.**

23                   **Subsequent to my leaving the account, TSI**  
24 **was substantially behind in making payments at the**  
25 **time the service was terminated in May of 1992. I and**

1 the others in the company who worked on this account  
2 went out of our way to make this relationship work. I  
3 just can't believe that after all we did TSI refused  
4 to fulfill its obligation.

5 MR. SELF: The witness is available for  
6 cross examination.

7 COMMISSIONER CLARK: Mr. Parsons.

8 CROSS EXAMINATION

9 BY MR. PARSONS:

10 Q Good morning, Ms. Daurio.

11 A Good morning.

12 Q Now, you were not the account executive for  
13 TSI for the entire period of the relationship, were  
14 you?

15 A No, that's correct.

16 Q You were the account executive, in fact, for  
17 two fairly brief periods of time separated by a period  
18 when someone else took over; isn't that right?

19 A I wouldn't say it was a brief period. I had  
20 it from the initial institution of the contract and  
21 the billing up until 1991.

22 Q And there was a break in there where you did  
23 something else and someone else took over for TSI;  
24 isn't that right?

25 A That's correct.

1 Q And then after you left the TSI account,  
2 someone else took over then, right?

3 A The last time?

4 Q Yes, ma'am.

5 A Yes, sir.

6 Q And you really have no personal knowledge of  
7 what happened in regard to the TSI account in the  
8 first break or in the period after you left the TSI  
9 account; isn't that right?

10 A The only knowledge I have is during the  
11 first break, when I got the account back, there had  
12 been no payments made. And I started making payment  
13 arrangements and settling the disputes. And the  
14 second time I gave up the account, so to speak, I did  
15 not have any involvement with it after that.

16 Q When you say you're sorry things ended  
17 badly, this is just what someone told you about this  
18 case, isn't it? It's not your personal knowledge?

19 A I'm sorry, I didn't hear you.

20 Q When you said at the end of your opening  
21 statement that you were sorry that things ended badly  
22 in regard to the TSI account, that doesn't come from  
23 your personal knowledge, does it?

24 A I knew that the account had gone bad, that  
25 payments were not being made and I felt that all of

1 the work that I had put into it was not being used  
2 properly. He didn't pay the bill at the end after  
3 everything I had done and my department had done for  
4 him in the beginning of the relationship.

5 Q I hear you saying that, but you don't know  
6 that because you were there and interacting with TSI.

7 A That's correct.

8 Q You know that because somebody else who is  
9 handling the account told you their version of events;  
10 isn't that right?

11 A That's correct.

12 Q Now, Clara Reynardus was another employee of  
13 Transcall who also handled the TSI account, wasn't  
14 she?

15 A Yes.

16 Q She was an important person who handled it  
17 for a length of time, didn't she?

18 A She handled it after I did, yes, sir.

19 Q And she is not here to testify today, is  
20 she?

21 A No.

22 Q Now, you told us that when you turned  
23 over --

24 COMMISSIONER CLARK: Just so I'm clear, is  
25 that the same woman who was in a traffic accident?

1           **WITNESS DAURIO:** Yes, ma'am.

2           **MR. SELP:** Commissioner Clark, for the  
3 record, it wasn't a traffic accident, it was an  
4 industrial accident, but anyway --

5           **COMMISSIONER CLARK:** Okay. Thank you.

6           **Q**        **(By Mr. Parsons)** Now, Ms. Daurio, when you  
7 turned over the TSI account for the second time, the  
8 last time, TSI was current with Transcall, wasn't it?

9           **A**        That's correct.

10          **Q**        And, in fact, in the period of time when you  
11 handled the account, the relationship between TSI and  
12 Transcall was basically acceptable, wasn't it?

13          **A**        I believe so, yes.

14          **Q**        At least it ended acceptably when you left  
15 because TSI was current?

16          **A**        That's correct. And I thought all issues  
17 were resolved.

18          **Q**        And the deterioration in the account which  
19 you've alluded to, that happened on somebody else's  
20 watch, didn't it?

21          **A**        That's correct.

22          **Q**        Now, let me ask you, do you think an  
23 institution like Transcall should be so sensitive to  
24 the person that is handling the account that whether  
25 that account goes good or goes bad depends on the



1 personality of the person handling it?

2 A No, I do not believe that.

3 Q It really ought to go good or go bad based  
4 on the merits of the account, not on the person  
5 handling it, right?

6 A And the service provided, yes.

7 Q And you believe that you handled the TSI  
8 account well?

9 A Yes, I did.

10 Q And you don't know whether Clara Reynardus,  
11 or anyone else who handled that account, did the job  
12 as well as you did, do you, ma'am?

13 A That's true.

14 Q Did you hear Mr. Messer's opening statement  
15 where he referred to the dispute about 6-second  
16 increment billing, ma'am?

17 A Yes, I heard it.

18 Q Now, you notified Mr. Dennis Sickle, your  
19 superior, at some point that Transcall was not going  
20 to be able to do 6-second billing to TSI; isn't that  
21 right?

22 A Not automatically, that's correct.

23 Q Now, in fact, the switch, the hardware,  
24 actually did record calls in 3-second or 6-second  
25 increments, didn't it?

1           A     Yes, it did.

2           Q     And the problem wasn't that the data wasn't  
3 being recorded, the problem was that your billing  
4 software wasn't able to print the data, to record the  
5 data in 6-second increments; isn't that right?

6           A     As I recall, it was that the billing system  
7 could not bill TSI's customers in one interval and  
8 bill TSI in another.

9           Q     Okay. There was a software limitation in  
10 Transcall's software; isn't that right?

11          A     That's correct.

12          Q     That wasn't TSI's fault in any way, shape or  
13 form, was it, ma'am?

14          A     No, it was not.

15          Q     In fact, in the contract Transcall or Telus  
16 had promised to bill TSI in 6-second increments?

17          A     That was in the agreement.

18          Q     You, in fact, had a copy of the agreement to  
19 work with at your desk?

20          A     Yes.

21          Q     You used it in your everyday work?

22          A     I used it once a month in preparation of the  
23 bill.

24                    **COMMISSIONER GARCIA:** I'm sorry, what was  
25 the question?

1           **MR. PARSONS:** Ms. Daurio, you used the  
2 agreement between the parties in your work?

3           **COMMISSIONER GARCIA:** Got you. I got your  
4 answer.

5           **Q**        (By Mr. Parsons) Now, you went to your  
6 superior, Mr. Sickle, and told him about this 6-second  
7 problem?

8           **A**        I told him that I could not bill TSI for  
9 international calls according to the way the agreement  
10 was written.

11          **Q**        And he said he would handle that with TSI,  
12 did he not, essentially?

13          **A**        That's correct.

14          **Q**        Now, you didn't handle that with TSI, did  
15 you, ma'am?

16          **A**        No.

17          **Q**        You have no idea what Mr. Sickle and  
18 Mr. Esquenazi agreed to, if anything, about the  
19 6-second billing, do you?

20          **A**        What I know is that I was told by Mr. Sickle  
21 to resolve the international issue. We were giving  
22 him a flat percentage off of international billing.

23          **Q**        So I'm clear, that's what Mr. Sickle told  
24 you, not what Joel Esquenazi told you?

25          **A**        That's correct.

1           Q     So you have no personal knowledge that there  
2 was any agreement between TSI and Transcall that the  
3 40% discount would substitute for the 6-second  
4 increment billing, right?

5           A     That's correct, except that I believe that  
6 if Mr. Esquenazi thought he was entitled to more that  
7 I would have heard about it every time I prepared an  
8 invoice.

9           Q     That's just your personal belief, isn't it?

10           COMMISSIONER GARCIA: Mr. Parsons, if I  
11 might just follow up with a question, and it goes  
12 to -- you were in charge of then producing the bill  
13 with a 40% discount?

14           WITNESS DAURIO: That's correct.

15           COMMISSIONER GARCIA: You read -- after  
16 Mr. Sickle's instructions, you read the 6-second  
17 increment to -- instead of reading 6-second increment,  
18 just a 40% discount off the bill based on how many  
19 second increments?

20           WITNESS DAURIO: It was full minute on the  
21 invoice.

22           COMMISSIONER JACOBS: Then you just gave it  
23 a 40% discount from --

24           WITNESS DAURIO: Off the top.

25           COMMISSIONER GARCIA: That's how Mr. Sickle

1 told you to interpret the contract?

2           **WITNESS DAURIO:** That's correct.

3           **Q**        (By Mr. Parsons) You know, Ms. Daurio,  
4 that Mr. Sickle didn't sign that agreement between the  
5 parties, did he?

6           **A**        I do not recall who signed it.

7           **Q**        It wasn't Mr. Sickle, though, was it?

8           **A**        I don't know.

9           **Q**        Okay. Assume for me it wasn't Mr. Sickle.

10 As you sit here today, you don't know whether  
11 Mr. Dennis Sickle had the authority to make changes to  
12 that contract or not, do you?

13           **A**        As a vice president of the company I would  
14 assume he had the authority to make changes to the  
15 contract.

16           **Q**        And that's your assumption as a witness for  
17 Transcall/ATC Telus/WorldCom today?

18           **A**        That's correct.

19           **Q**        Let me see if I understand what you're  
20 saying the deal was, as reported to you by Mr. Sickle.

21                    The deal was instead of Joel Esquenazi, TSI,  
22 being billed in 6-second increments, he got a 40%  
23 discount on international traffic and 15% on domestic  
24 traffic, right?

25           **A**        That's correct.

1           Q     Ma'am, isn't that totally out of proportion  
2 in terms of trying to compensate Mr. Esquenazi for the  
3 6-second increment failure?

4           A     That's outside of the scope of what my  
5 function was on this account. I mean, I didn't make  
6 those decisions. I had nothing to do with that. I  
7 followed the instructions of my superior at the time.

8           Q     But you saw every month's billing, didn't  
9 you?

10          A     Yes, I did.

11          Q     In fact, you constructed a invoice for TSI  
12 based on every month's billing to the customers,  
13 right?

14          A     Most every month I did it, yes.

15          Q     So you must have gotten a sense of whether  
16 the failure to bill in 6-second increments could  
17 amount to 40% of, for example, the international  
18 traffic amount.

19          A     I don't recall that I would ever have even  
20 thought about this. It was instructions from Dennis  
21 Sickie. This was not my full-time job taking care of  
22 the TSI account. I had other jobs and  
23 responsibilities. I took the instruction from Dennis  
24 Sickie in preparing the bill and did as he told me to.

25          Q     Would it surprise you to learn that the

1 breach by Transcall in the failure to bill in 6-second  
2 increments is really only worth about a 10% discount,  
3 not a 40% discount?

4       A     I would have no opinion on how much it was  
5 worth to either party. Like I previously stated, I  
6 was instructed to do something and I did it.

7       Q     Ms. Daurio, do you have the invoices in  
8 front of you in your notebook?

9       A     Yes, I do.

10       Q     Could you look at two invoices for me. An  
11 invoice dated January 17, 1991, and an invoice dated  
12 January 10, 1991. The first being for the month of  
13 December 1990, and the second one being for the month  
14 of November 1990. And this has been marked as a  
15 composite exhibit as Metcalf No. 7 in this case. I  
16 think you will just have the raw invoices, though.

17       A     Can I have the months again, please?

18       Q     Yes, ma'am. December 1990 and November  
19 1990.

20               MR. SELF: Excuse me. Mr. Parsons, is that  
21 attached to his direct or rebuttal?

22               MR. PARSONS: It's an exhibit to his  
23 deposition.

24               COMMISSIONER CLARK: Would you happen to  
25 have an extra one handy? It would probably take me a

1 while to get the Metcalf deposition.

2 MR. PARSONS: Yes, ma'am. If I could  
3 approach the Commission bench.

4 COMMISSIONER CLARK: Absolutely.

5 MR. PARSONS: (Hands out document)

6 MR. SELF: For the record, Commissioners,  
7 these same two invoices are attached to Ms. Daurio's  
8 direct testimony as MJD-7, Page 25 of 46 and 26 of 46.  
9 They are also attached to her direct testimony.

10 Q (By Mr. Parsons) Ms. Daurio, could you  
11 look for me on the first page of the exhibit, the  
12 first line item, "international day usage." Do you  
13 see that?

14 A Yes. On which bill am I looking at first?

15 Q Look at the first page, the December bill.

16 A December. Okay.

17 Q Do you see that the calls have a number  
18 7,657?

19 A Yes, I do.

20 Q The minutes line reads 30,551.8?

21 A Yes.

22 Q Can you read out loud the amount due for  
23 that line?

24 A \$26,305.67.

25 Q Can you turn the page, please? Again, do



1 you see the line item for international usage?

2 A Yes, I do.

3 Q Do you see the calls at 8,643?

4 A Yes, I do.

5 Q Do you see the minutes at 35,206.9?

6 A Yes, I do.

7 COMMISSIONER GARCIA: Mr. Parsons, I lost  
8 you. Where are you reading from?

9 MR. PARSONS: Second page, first line item  
10 marked "international."

11 COMMISSIONER GARCIA: Got you. Thank you.

12 Q (By Mr. Parsons) Ms. Daurio, please read  
13 out the amount due for that line item.

14 A \$26,305.67.

15 Q Down to the penny it's the same as the prior  
16 invoice, isn't it?

17 A Yes, it is.

18 Q That's not possible, is it?

19 A It would seem unlikely but not impossible.

20 Q In fact, it's impossible because the number  
21 of calls and the number of minutes are different?

22 A Depending on where the calls were made to,  
23 you could have the same amount of calls for the same  
24 minutes but be different countries at different rates.

25 Q It's theoretically possible, but you would

1 agree with me it is a minute possibility.

2 MR. SELF: I object. I think she's already  
3 answered the question twice.

4 MR. PARSONS: You can answer.

5 COMMISSIONER CLARK: Well, I think she has  
6 answered the question.

7 Q (By Mr. Parsons) Ms. Daurio, was one of  
8 these invoices fabricated in that line item to your  
9 knowledge?

10 A To my knowledge, I have no knowledge of this  
11 as this format was not invoices that I prepared.

12 Q Who was the account executive when these  
13 invoices were generated?

14 A As far as service issues during this period  
15 of time, I was the account executive, if you will, but  
16 somebody in the finance department had taken over the  
17 monthly preparation of the bills.

18 Q Who was that person?

19 A Sharon Copeland.

20 Q Is Sharon Copeland going to be here today?

21 A I'm sorry?

22 Q Is Sharon Copeland going to be here today?

23 A No.

24 Q Ms. Daurio, I think I only have a few fina  
25 areas to cover.

1           You took the greenbar, which recorded the  
2 traffic to the customers, and you created the invoices  
3 to my client from the greenbar, am I correct?

4           A     From the last page, the summary of those.

5           Q     So the amount due on the invoice to my  
6 clients, the numbers, ought to be the same as on the  
7 summary page, right?

8           A     Could you repeat the question, please?

9           Q     Yes, ma'am. Since the invoice was created  
10 from the greenbar summary page, the numbers on the  
11 invoice ought to reflect the numbers on the greenbar  
12 summary page?

13          A     The number of calls and the minutes should  
14 match, but then I applied the rates in the agreement.

15          Q     Okay. If they didn't match, if the minutes  
16 and the rates didn't match, that would be an  
17 indication that something was wrong, wouldn't it?

18          A     It would be more than likely my human error  
19 that -- if printouts didn't match the manual bills I  
20 was producing. (Pause)

21               MR. PARSONS: That's all I have, Ms. Daurio.

22               COMMISSIONER CLARK: Staff.

23               MS. KEATING: Staff has no questions.

24               COMMISSIONER CLARK: Redirect.

25               COMMISSIONER JACOBS: I have a question.

1           **COMMISSIONER CLARK:** I'm sorry.

2           **COMMISSIONER JACOBS:** That's okay.

3           Ms. Daurio, when the call data is recorded,  
4 as I understood you to say in response to a question,  
5 it is recorded in some increment less than a minute;  
6 is that correct?

7           **WITNESS DAURIO:** I believe that to be true;  
8 that the switch recorded it in different increments.

9           **COMMISSIONER JACOBS:** Okay. And would it be  
10 possible -- this may have been done. If so, I can  
11 wait to hear when that information or data or evidence  
12 is presented. But it will be possible then for  
13 someone to look at the actual call data for TSI and  
14 determine how many calls would have been billed less  
15 than a minute because we were being billed for a  
16 minute; is that correct?

17           **WITNESS DAURIO:** Yes.

18           **COMMISSIONER JACOBS:** So you could look at  
19 the call data and determine how many calls would have  
20 been billed for less than a minute and the potential  
21 savings and differences in revenue that would have  
22 occurred; is that correct?

23           **WITNESS DAURIO:** I believe so.

24           **COMMISSIONER JACOBS:** Okay. But these  
25 invoices would not show that. Obviously not, because

1 you're billing them for a minute; the invoices  
2 reflected a minute.

3 WITNESS DAURIO: Right.

4 COMMISSIONER JACOBS: All right. Thank you.

5 COMMISSIONER CLARK: Redirect.

6 MR. SELF: We have no redirect.

7 MR. PARSONS: No further cross.

8 MR. SELF: We would ask that Ms. Daurio be  
9 temporarily excused until her rebuttal, and we would  
10 call Mr. Metcalf.

11 COMMISSIONER CLARK: Did you move the  
12 exhibit?

13 MR. SELF: Not yet, but I will. We move  
14 Exhibit 12.

15 COMMISSIONER CLARK: Exhibit 12 will be  
16 admitted in the record without objection.

17 (Exhibit 12 received in evidence.)

18 We're going to take just a short break. A  
19 ten-minute break and then we'll come back with that.

20 And Commissioner Garcia, there were a number  
21 of depositions that we entered into the record, just  
22 for your information, and the list is right here.

23 We'll come back a quarter till.

24 (Brief recess.)

25 - - - - -



1           A     I have only one minor change on exhibit  
2 number DSM-1 revised.

3           Q     I'm not there yet, Mr. Metcalf.

4           A     I'm sorry.

5           MR. SELF: Commissioners, for the record,  
6 after Mr. Metcalf filed his testimony and exhibits, we  
7 found that there was a mathematical error and we  
8 substituted a revised Page 13. And I have extra  
9 copies of both that page and the revised exhibits. So  
10 when you're looking at the testimony, make sure that  
11 at the bottom of Page 13 it says "revised." And if it  
12 doesn't, I'll be more than happy to pass out some of  
13 these copies.

14           COMMISSIONER CLARK: My testimony does have  
15 a "Revised 13."

16           Q     (By Mr. Self) Recognizing, Mr. Metcalf,  
17 that you have a revised Page 13 and that is the  
18 correct page that should be before us at the moment,  
19 do you have any changes or corrections to your direct  
20 testimony?

21           A     To the direct testimony, no. To the  
22 exhibit, yes.

23           Q     Okay. We'll get there.

24                     With respect to your exhibits, did you  
25 prepare exhibits that had been designated as DSM-1,

1 which would be the revised DSM-1, as well as DSM-2?

2 A Yes, sir.

3 Q Again, recognizing that the DSM-1 that  
4 should be before us is the one that says "revised", do  
5 you have any changes or corrections to the DSM-1  
6 revised or DSM-2?

7 A No, sir, I have none to 2. On 1, Revised 1,  
8 if you go to the line "November of '90" and you go all  
9 the way over to the right-hand side there, the "589"  
10 is actually an October adjustment. Had I been able to  
11 do this in some way, I would have had the 9990 number  
12 that is in October plus the 589 number. I put those  
13 on two different lines so they would be obvious. But  
14 then below that I called it a September adjustment and  
15 the 589 was actually an October adjustment.

16 Q Okay. So we're talking about Column H?

17 A Column H.

18 Q And the line that says November of '90,  
19 you're simply saying the 589.25 is also an October  
20 1990 adjustment?

21 A And the comment below that, which should  
22 have pointed that out, said September instead of  
23 October.

24 Q Okay. With that notation for the record, do  
25 you have any other changes or corrections or



1 modifications about this exhibit?

2 A No, sir.

3 MR. SELF: Commissioner Clark, could we have  
4 a number for his direct exhibits?

5 COMMISSIONER CLARK: DSM-1 as revised and  
6 corrected and DSM-2 will be marked as Exhibit 13.

7 MR. SELF: Thank you. And with that, we  
8 would also ask that his direct testimony be inserted  
9 in the record as though read.

10 COMMISSIONER CLARK: It will be inserted  
11 into the record as though read.

12 (Exhibit 13 marked for identification.)

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**I. INTRODUCTION**

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**Q: PLEASE STATE YOUR NAME, BUSINESS AFFILIATION, ADDRESS, AND ON WHOSE BEHALF YOU ARE TESTIFYING?**

**A: My name is Douglas S. Metcalf, and I am President of Communications Consultants, Inc., 400 N. New York Avenue, Suite 213, Winter Park, Florida 32790-1148. CCI provides regulatory, tariff and management assistance to clients using or providing services affected by regulation. My responsibilities in this proceeding include the examination of the billing practices of Telus Communications, Inc ("Telus") and its successor Transcall America, Inc. d/b/a ATC Long Distance ("Transcall") as they were provided to Telecommunications Services, Inc. ("TSI") during the 1989 to 1992 period of their business relationship.**

**Q: HAVE YOU APPEARED AS A WITNESS BEFORE THIS COMMISSION IN PREVIOUS PROCEEDINGS?**

**A: Yes, I have participated or testified in more than 25 cases before this Commission since 1976 on behalf of several parties, but most often the Florida Ad Hoc Telecommunications Users' Committee, an ad hoc group of the largest users of business telephone services within the state of Florida.**

**Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

**A: I have been asked to investigate TSI's claims and provide my conclusions regarding the Staff Audit Report ("Audit") conducted by Ms. Kathy L. Welch of the Commission's auditing Staff. I have found that in the main, Transcall did more than was required to serve the customers of TSI, as the ultimate carrier of their long distance service, and to accommodate and serve TSI in**

1 its business relationship. This included providing service within the  
2 provisions of the "Agreement By and Between Telus Communications, Inc.  
3 and Telecomm Services, Inc.," dated July 7, 1989 ("Agreement"), previously  
4 identified as Exhibit MJD-1. While from time to time there were  
5 implementation and other provisioning and billing issues, these were  
6 consistent with industry practices at the time and within the acceptable  
7 tolerances established by the tariffs.

8 **Q: WHAT DOCUMENTS HAVE YOU REVIEWED IN THIS**  
9 **PROCEEDING?**

10 **A:** My analysis began with a general review of the case correspondence and  
11 pleadings, and then expanded to numerous boxes, binders, and cabinets of  
12 related material at the offices of Transcall's attorneys in Tallahassee. I have  
13 reviewed the 1994 deposition transcripts of Joel Esquenazi of TSI and Mary  
14 Jo Daurio of Transcall, and the more recent deposition transcripts of Joseph  
15 Holop, Dennis Sickle, and Brian Sulmonetti, all employees of Transcall. I  
16 reviewed in detail the March 14, 1998 draft report of Lopez Levi &  
17 Associates, ("LLA") the accountants for TSI, and at the Miami offices of  
18 LLA I also examined some 23 boxes of documents and workpapers that serve  
19 as the basis of the LLA report. Finally, I reviewed three boxes of material at  
20 the WorldCom offices in Boca Raton, which included the credit support  
21 provided by TSI for its total credit claims during the period of its business  
22 relationship with Transcall.

23 **Q: WHAT INTERVIEWS DID YOU CONDUCT AS PART OF YOUR**  
24 **DOCUMENT ANALYSIS?**

1       **A:**    For purposes of understanding the issues in dispute and for clarifying pieces  
2           of information contained in the documents I reviewed, I have spoken with  
3           Brian Sulmonetti and Mary Jo Daurio of Transcall, Ignacio DuQuesne of  
4           Lopez Levi & Associates, and Kathy Welch of the Commission's Staff.  
5           Also, to refresh my memory as to the general provisions of reseller tariffs and  
6           industry billing practices during the 1989 to 1992 timeframe, I requested  
7           material regarding billing error rates and call completion from personnel at  
8           Technologies Management Inc. of Winter Park, Florida, a widely known  
9           source for historical industry tariff documents. I have also had a number of  
10          conversations with Transcall's attorneys in this case.

11       **Q:**    **PLEASE DESCRIBE THE STEPS YOU HAVE TAKEN IN YOUR**  
12           **ANALYSIS?**

13       **A:**    Within the limits of the available documents, I have:

- 14           - Verified the payments, credits and billing of the accounts between TSI and  
15            Transcall;
- 16           - Worked to reconcile differences which exist in the billing between the  
17            retail invoices (plain paper invoices) prepared by Transcall for TSI's  
18            customers, and the greenbar summary and the invoices to TSI  
19            prepared by Transcall for TSI as a reseller;
- 20           - Reviewed numerous billing records to determine the accuracy of TSI's  
21            claims regarding duplicate billing, overbilling, "stuck clock" billing,  
22            overlapping calls, and charges for incomplete calls;
- 23           - Checked the termination dates of a sample of TSI's customers against the  
24            greenbar billing to determine if the customers were timely terminated;

- 1           - Reviewed tariffs from a variety of Florida resellers and smaller carriers for  
2                           the 1989-1992 time period to verify the general consistency of  
3                           Transcall and TSI tariff standards, and the prevailing industry  
4                           standards regarding billing error rates and call completion standards;  
5           - Reviewed and analyzed the draft report prepared by LLA;  
6           - Reviewed and analyzed the Staff Audit Report for completeness and  
7                           accuracy; and  
8           - Prepared a summary which reflects all of the Transcall billings, TSI  
9                           payments, credits from Transcall to TSI, and my additional  
10                          adjustments for the other issues discussed within this testimony. A  
11                          copy of this summary is attached as Exhibit DSM-1.

12       **Q:   WHAT DID YOU CONCLUDE FROM YOUR ANALYSIS?**

13       **A:   Several things. Overall, Transcall worked diligently throughout the course**  
14           **of its relationship with TSI to make its business relationship with TSI**  
15           **successful. Transcall was accurate and timely in recording payments from**  
16           **TSI. Transcall also billed TSI and its customers as required, and within**  
17           **acceptable tariff limits, except for the 9-second error. Transcall gave credits**  
18           **very freely, often without paperwork or verification of any mistake, and**  
19           **reflected those credits on TSI's statements. Transcall, in an attempt to assist**  
20           **TSI in its business, extended credit to TSI by allowing a significant accounts**  
21           **receivable balance, increased the margins to TSI far beyond those negotiated**  
22           **or contemplated in the original Agreement, and worked with TSI to**  
23           **expeditiously resolve any disputes as they arose. The effect of these actions**

1 was to provide TSI with a windfall far beyond the value contemplated by the  
2 original Agreement.

3 Further, to the extent possible using the billing technologies of that  
4 time, Transcall billed TSI as required by the Agreement between the two  
5 companies. TSI was the first reseller on the Miami/Telus billing system. The  
6 billing systems in place for Transcall's own retail customers were difficult to  
7 adapt to a reseller environment, so flexibility and some tolerance for  
8 technology and a changing business environment was a requirement for both  
9 parties. Problems that could be fixed were fixed, and the liberal credit  
10 policies of Transcall to TSI certainly showed Transcall's willingness to go the  
11 extra mile to continue the business relationship.

12 From my review and analysis of the LLA draft report, I can only  
13 conclude that it contains so many errors it is useless in any evaluation of the  
14 TSI-Transcall business relationship. Since this is only a draft report, I will  
15 reserve any specific comments regarding LLA until my rebuttal testimony in  
16 the event the report they may file as direct testimony is different from the  
17 draft report.

18 My conclusions are similar to those reached by the Staff Audit  
19 Report, which represents a comprehensive analysis of TSI's claims and the  
20 draft LLA report. Based upon my analysis of the TSI claims and the draft  
21 LLA report, I agree with the audit findings and adjustments with only four  
22 exceptions.

23 My conclusions on the claims regarding stuck clock, duplicate, and  
24 overbilling, confirmed by the Staff Audit, demonstrate that these errors were

1 within the 1%-2% error rate articulated in both the Transcall and TSI tariffs.  
2 The types of problems that TSI complained of were typical, but within the  
3 standards of the day, due to the limitations of the call recording technology  
4 of the era experienced by all carriers. Further, Transcall demonstrated on  
5 countless occasions its responsiveness to these technological limitations by  
6 crediting any claims of TSI even with the limited documentation  
7 substantiating any of these concerns.

## 8 II. Billings

9 **Q: DID TRANSCALL BILL TSI'S CUSTOMERS IN ACCORDANCE**  
10 **WITH THE AGREEMENT AND TSI'S BILLING INSTRUCTIONS?**

11 **A: The bills prepared by Transcall for TSI's customers were based upon the rates**  
12 **and billing increments directed by TSI in their instructions to Transcall. As**  
13 **the Staff audit finds, it appears that some of these instructions were**  
14 **inconsistent with TSI's tariff. However, based upon the Agreement, it was**  
15 **clearly TSI's responsibility to ensure that TSI's customers were being billed**  
16 **pursuant to TSI's tariff, and that the billing directions provided to Transcall**  
17 **were consistent with TSI's tariff.**

18 **Q: DID TRANSCALL BILL TSI IN EXCESS OF THE APPLICABLE**  
19 **TARIFFS OR THE AGREEMENT BETWEEN THE PARTIES?**

20 **A: Bills prepared by Transcall for TSI were billed according to the Agreement**  
21 **between the parties with three exceptions.**

22 The first two exceptions were verbal modifications made to offset  
23 technical billing limitations which could not be accomplished with the  
24 technology of Transcall's system. These changes provided TSI with a 15%

1 discount on all domestic calls and a 40% discount off the TSI retail rate on  
2 all international calls. These discounts more than compensated TSI for the  
3 technical limitations of Transcall's billing system. The Staff Audit agrees  
4 with my conclusion.

5 The third exception was a decrease in July 1990 in the travel card rate  
6 requested in February 1990 by Mr. Esquenazi. With this reduction, the travel  
7 card rate went from a single around-the-clock rate to reduced time-of-day  
8 rates. See Exhibit MJD-5.

9 Based upon my review of the documentation and course of conduct  
10 between the parties, it is my opinion that the lack of written documentation  
11 from TSI objecting to the additional discounts underscores TSI's  
12 acknowledgment and acceptance of the changes.

13 The Staff Audit further confirms that TSI was billed pursuant to the  
14 Agreement except for the above modifications, each of which the Audit  
15 determined to be appropriate, and the 9-second error. Thus, I agree with the  
16 determination in Audit Disclosure No. 5, at page 12, that the draft LLA  
17 adjustment of \$80,131.12 is inappropriate because the 40% discount more  
18 than compensates TSI on the issue of 6-second increments on international  
19 calls. I would further note, however, as the Audit indicates in Audit  
20 Disclosure No. 12, at page 45, that if the 40% discount was inappropriate,  
21 then in netting the \$80,131.12 against the total \$494,730.37 value of the 40%  
22 discount, TSI received a phenomenal windfall credit of \$414,599.25.

23 **Q: WERE THERE ANY OTHER BILLING ISSUES THAT YOU**  
24 **IDENTIFIED DURING YOUR BILLING ANALYSIS?**



1       **A:**    Yes. As part of my analysis, I compared the monthly greenbar reports of  
2            retail calls of TSI's customers with the Transcall invoices to TSI for the total  
3            monthly service. My investigation of the TSI billing practices and the Staff  
4            Audit identified several billing issue adjustments that were not overly  
5            substantial, but which I have included in Exhibit DSM-1 to assure a more  
6            comfortable degree of accuracy for the total summary.

7        **Q:**    **WHAT WAS THE FIRST BILLING ISSUE YOU HAVE**  
8            **IDENTIFIED?**

9        **A:**    Staff Audit Disclosure No. 7, at page 20, recommends a downward  
10           adjustment of \$8,776.44 for a change in the billing format in March and May  
11           of 1992. From my review of the relevant documents that may not have been  
12           available to Ms. Welch and which I have included as Exhibit DSM-2, TSI  
13           agreed that it would pay Transcall switchless reseller rates starting in March,  
14           until TSI could obtain its own Feature Groups. In early May Transcall agreed  
15           to grandfather the old rates to TSI, subject to TSI fulfilling certain modified  
16           arrangements. In late May, TSI reneged on the arrangements that were the  
17           basis for Transcall's concession to grandfather the old rates. These events  
18           explain why there are March and April usage bills at the old rates, and March  
19           and May usage bills at the switchless reseller rates. (Copies of these bills are  
20           attached to Exhibit MJD-2). Therefore, I have calculated all three months at  
21           the higher switchless reseller rates, which increases the amount due by  
22           \$17,890.14 on my Exhibit DSM-1 (and noted in the "DSM FOOTNOTE"  
23           column as "B1").

1       **Q: WHAT WAS THE SECOND BILLING ISSUE YOU HAVE**  
2       **IDENTIFIED?**

3       **A: In Audit Disclosure No. 4, at pages 8-9 under subsection A, for the months**  
4       **of the September 1991, November 1991, and December 1991, Staff**  
5       **recomputed the bill to TSI on the basis of other monthly billing summaries**  
6       **it had located. Using these alternative summaries, the Staff determined that**  
7       **the bill to TSI was overstated by \$38,108.59. Based upon my review of the**  
8       **bills that were rendered at the time, I believe that the Staff had no basis for**  
9       **utilizing these alternative summaries. I take this position based on the**  
10      **assumption that the Transcall personnel responsible for determining the**  
11      **appropriate bill to send to TSI would have sent the correct invoice. Not**  
12      **finding any letters or telephone log notes objecting to the bill TSI received**  
13      **in this instance, I further conclude that Mr. Esquenazi must have agreed with**  
14      **Transcall's original action. Therefore, I have excluded this adjustment on my**  
15      **Exhibit DSM-1 (which is identified by the notes in the "DSM FOOTNOTE"**  
16      **column as "B2").**

17      **Q: WHAT WAS THE THIRD BILLING ISSUE?**

18      **A: Also in Audit Disclosure No. 4, at page 9, under subsection B, for the months**  
19      **of March and April 1991, the Staff determined that TSI received an excess**  
20      **credit of \$10,787.29. In addition, the Staff determined that in April 1991,**  
21      **Transcall gave TSI a credit for October 1990 usage in the amount of**  
22      **\$9,990.62 that should not have been given. If TSI was overcompensated, and**  
23      **the purpose of this proceeding is to establish a correct billing record, these**  
24      **excess credits should be removed, and not ignored as they were in Staff**

1 Exhibit-1. Therefore, I have accounted for these excess credits of  
2 \$20,777.91 in the appropriate months of my Exhibit DSM-1 (and which are  
3 noted in the "DSM FOOTNOTE" column as "B3").

4 **Q: WHAT IS THE FOURTH BILLING ISSUE?**

5 **A:** In Audit Disclosure No. 9 at page 28, Staff has calculated an additional  
6 refund in the amount of \$83,350.43 for the period December 1990 to May  
7 1992 on the assumption that Transcall was required to bill TSI for  
8 conversation time (TP6 to TP7) instead of full connection time (TP1 to TP7).  
9 I believe this adjustment is completely inappropriate.

10 This adjustment by the Staff is predicated on the assumption that  
11 when Transcall changed its tariff to conversation time billing, Transcall  
12 should have unilaterally amended the Agreement and billed TSI for only  
13 conversation time. In support of this conclusion, the Staff relies upon a check  
14 sent to TSI pursuant to the settlement approved by this Commission in Order  
15 No. PSC-93-1237-AS-TI. However, as a reseller, TSI was to be billed based  
16 upon the Agreement (as modified) between TSI and Telus, not based on  
17 Transcall's tariff for its own retail customers.

18 A fundamental premise of the Agreement was that TSI's bill was  
19 discounted from the amounts billed to TSI's customers. As Staff  
20 acknowledges in this disclosure, TSI's tariff clearly provided for TSI's  
21 customers to be billed on the basis of TP1 to TP7, and the Agreement did not  
22 provide for any different treatment in the billing to TSI. Thus, any change  
23 to the Transcall tariff definition of billable call duration did not apply to the  
24 bills rendered by Transcall to TSI or its customers.



1       **Q: WHAT WAS YOUR ANALYSIS OF TSI'S ALLEGATIONS**  
2       **REGARDING THE IMPROPER RECORDING OF THE PAYMENTS**  
3       **MADE BY TSI TO TRANSCALL?**

4       **A: Based on the documentation provided by TSI, and the more-complete records**  
5       **that were found in Transcall's own files, the payments made by TSI to**  
6       **Transcall were properly recorded. Transcall was precise in recording actual**  
7       **payments by check or electronic funds transfer.**

8               My conclusions regarding payments are supported by the findings of  
9       the Staff Audit and presented in Exhibit 1, on page 51, of the Staff Audit  
10      Report. On my Exhibit DSM-1, I have prepared a schedule that updates Staff  
11      Audit Exhibit 1 and shows the complete billings, payments, and credits  
12      history for the entire period. Thus, with respect to the payments record in  
13      Staff's audit, I am in complete agreement with Ms. Welch's conclusion.

14      **Q: WHAT WAS YOUR ANALYSIS OF THE CREDITS GIVEN TO TSI?**

15      **A: Transcall rendered some \$170,000 in credits to TSI from 1989-1992, though**  
16      **TSI's total documentation of actual errors by Transcall totals only**  
17      **\$51,486.96. Based upon my analysis of all of the documentation available**  
18      **regarding improper billings to TSI's customers, it is clear to me that TSI was**  
19      **grossly overcompensated for any misbillings experienced by TSI's customers.**  
20      **Indeed, the credits that were given by Transcall were calculated on the total**  
21      **retail rate billed by TSI to its customers rather than the more appropriate**  
22      **wholesale rate, which is what TSI paid to Transcall. The net effect of**  
23      **Transcall's actions was to substantially increase TSI's margins, adding to the**  
24      **windfall it received during this relationship.**



1           actions, I believe that the Commission has fully resolved all of the claims  
2           raised by TSI. In returning this case to the court for final disposition, the  
3           Commission should advise the court that, based upon this Commission's  
4           exclusive jurisdiction, all of the claims by TSI have been resolved.

5           **Q: DOES THAT CONCLUDE YOUR DIRECT TESTIMONY?**

6           **A: Yes.**

1           Q        (By Mr. Self) Mr. Metcalf, do you have a  
2 brief summary of your direct testimony?

3           A        Yes, sir, I do.

4           Q        Go ahead.

5           A        Good morning, Commissioners. The facts of  
6 this case are very, very simple. They are that aside  
7 from the 9-second error, Transcall provided  
8 telecommunications services to TSI as contracted for  
9 in the agreement. Service was provided to TSI's  
10 customers by TSI in accordance with, and to the  
11 quality standards, of TSI's tariff.

12                    When customer service and administrative  
13 functions were required by Transcall personnel, such  
14 as Ms. Daurio, for items such as additions or changes  
15 to customer billing accounts, they were very promptly  
16 accomplished.

17                    Transcall over the 30-plus months of the  
18 relationship used a very generous credit policy with  
19 TSI. It not only reimbursed TSI for every credit  
20 requested by TSI's customers, but it did so to TSI at  
21 TSI's retail rates. They were returning -- when they  
22 were crediting, they were giving them credit at TSI's  
23 customers' rates rather than the rates they were  
24 charging TSI, thereby giving TSI its margin.

25                    Moreover, when all was said and done, the



1 total credits granted over the entire 30-month period  
2 were some 170,000 even though only 51,000 of those  
3 were actually documented credits. So customer  
4 complaints that Mr. Esquenazi wrote out, granted and  
5 turned back in.

6           **COMMISSIONER CLARK:** Let me be clear on  
7 that. I thought your testimony was the credits given  
8 to the customers were 50,000 and the credits given  
9 back to TSI were a hundred or whatever.

10           **WITNESS NETCALF:** Transcall never gave  
11 credits directly to customers. Transcall always gave  
12 the credit to TSI for TSI presumably to distribute.

13           **COMMISSIONER CLARK:** And I understood what  
14 your testimony was, was the credit Transcall gave TSI  
15 was a hundred something. And your research had  
16 indicated that the credits actually given to the  
17 customers only amounted to 50-something. Have I  
18 misunderstood?

19           **WITNESS NETCALF:** Throughout the whole  
20 30-month period Ms. Daurio and her successors  
21 continually requested documentation for the credit  
22 Mr. Esquenazi was requesting.

23           In the end, the only documentation that they  
24 ever got amounted to \$51,000, though they gave  
25 \$170,000 in total credits during that period of time.

1 And Ms. Daurio stated in her testimony that a lot of  
2 the reason for that was because it took the gift of a  
3 credit to get a partial payment out of Mr. Esquenazi.

4 **COMMISSIONER CLARK:** Thank you.

5 **WITNESS METCALF:** But, again, the best  
6 evidence -- there have been claims of billing --  
7 misbillings and billing concerns here. The best  
8 evidence of the billing concerns was the documents of  
9 the customers requesting them, and that amounted to  
10 only \$51,000 throughout the 30-month relationship.

11 Notwithstanding the efforts of Transcall to  
12 provide service and to assist TSI in the promotion of  
13 its business, I have in the end found that TSI still  
14 owes Transcall roughly \$660,000. And regardless of  
15 the amount that the Commission finally determines,  
16 your Staff auditor and I agree that there is no  
17 question, as shown by our respective analyses, that  
18 TSI owes ATC in excess of 500,000. She is 500 and I'm  
19 closer to 660.

20 Interest since 1992, using the Commission's  
21 formula, brings this amount up to roughly \$700,000.

22 **MR. SELF:** Thank you, Mr. Metcalf. The  
23 witness is available for cross examination.

24 **COMMISSIONER CLARK:** Mr. Parsons.

25 **CROSS EXAMINATION**

1 BY MR. PARSONS:

2 Q Mr. Metcalf, you've made a career of  
3 testifying before Public Service Commissions, have you  
4 not, sir?

5 A Yes, sir.

6 Q And you typically testify in a rate case,  
7 don't you?

8 A Yes, sir.

9 Q Now, you've testified many, many times in  
10 rate cases, haven't you?

11 A Yes, sir.

12 Q Despite all of those appearances and all of  
13 that testimony, this is the first time you've  
14 testified in a case where the focus of the case is  
15 billing irregularities; isn't that true, sir?

16 A Where the primary focus is billing  
17 irregularities. Yes, sir. Billing is always an issue  
18 in every rate case.

19 Q In your prefiled testimony in your  
20 deposition you mentioned a 2% industry standard for  
21 errors in billing; is that right?

22 A I mention that back in the period that we're  
23 dealing with, the '89 to '92 period, many resellers  
24 and carriers had a 2% error rate as one of the factors  
25 in their tariff, yes, sir.

1 Q It was actually stronger than that, wasn't  
2 it? Didn't you indicate this was an industry standard  
3 in your opinion?

4 A I said the one -- I said the 1 to 2½ was  
5 what was most carriers had in their tariff, provided  
6 for mistakes not in excess of 2½.

7 Q And, in fact, you've seen that in tariffs  
8 filed with the Florida Public Service Commission in  
9 connection with this case, haven't you, sir?

10 A Yes, sir.

11 Q What you haven't seen is that 2½ rate  
12 appearing in the parties' agreement, have you?

13 A It was not in the agreement, sir. It was in  
14 both the tariffs of ATC and TSI.

15 Q And when you say the ATC tariff, that's the  
16 tariff by which ATC bills its end users, right?

17 A It's own end user, yes, sir.

18 Q And when you talk about the Telus tariff,  
19 that is the tariff by which Telus bills its end users?

20 A Yes, sir.

21 Q And when you talk about the TSI tariff,  
22 again, that's the tariff for TSI to bill its end  
23 users?

24 A That's correct.

25 Q None of those tariffs refer to the

1 contractual relationship between TSI and Transcall,  
2 Telus, ATC?

3 MR. SELF: Objection. He's asking the  
4 witness for a legal conclusion.

5 COMMISSIONER CLARK: Mr. Parsons, do you  
6 have a response?

7 MR. PARSONS: Yes, Your Honor. He's  
8 testified about this in his direct testimony. He  
9 appears to be willing, able and knowledgeable to  
10 testify on the fact. I think we should hear what he  
11 has to say.

12 COMMISSIONER CLARK: Say that again.

13 MR. PARSONS: He's indicated he's  
14 knowledgeable on the subject in his direct testimony,  
15 and just recently in answering my questions he  
16 purports to be an expert who testifies in the area of  
17 rate cases, which are certainly tariff cases, as a  
18 career.

19 COMMISSIONER CLARK: Let me hear your  
20 question again.

21 MR. PARSONS: The question was that the end  
22 user tariffs you referred to, sir, are not the  
23 governing instrument in this case, which is a private  
24 contract?

25 COMMISSIONER CLARK: I'm inclined to agree

1 with Mr. Self. I think that's a legal conclusion to  
2 be drawn in this case by legal argument.

3 Q (By Mr. Parsons) Mr. Metcalf, isn't it a  
4 fact that the industry standard for billing errors  
5 today is practically zero?

6 A Yes, sir. I would note that the 2% is still  
7 in Mr. Esquenazi's tariff for TSI.

8 Q You're aware of the term "stuck clock," sir?

9 A Yes, I am.

10 Q What is a stuck clock?

11 A A stuck clock, sometimes called "hung port,"  
12 is a --

13 COMMISSIONER GARCIA: I'm sorry, called  
14 what?

15 WITNESS METCALF: Hung port -- is a  
16 situation where a -- when a call is hung up -- I mean  
17 terminated, that the switch doesn't somehow receive  
18 the signal to do that and keeps that port, in effect  
19 that call, open for some period beyond the actual  
20 termination of the conversation.

21 Q (By Mr. Parsons) And that can result in  
22 the billing reflecting considerably more time than the  
23 actual telephone call took; isn't that right?

24 A Yes, sir, that's correct.

25 Q It's a billing problem, or it was a billing

1 problem; isn't that right?

2           A     Well, I would say it's actually a switch  
3 problem.

4           Q     Because of --

5           A     But if the switch then recorded that, it  
6 would turn into a billing problem, yes, sir.

7                     It did not happen to the extent that  
8 Lopez-Levi said it did. And, in fact, there's no way  
9 of determining if any of their calls are hung ports.  
10 But yes, sir, it could happen.

11           Q     Your conclusion then is that it did happen  
12 in this case, just not to the extent that Lopez-Levi  
13 said it happened?

14           A     I can conclude from no document that we saw  
15 that even one hung port took place during the 30.5  
16 months of this case.

17           Q     Mr. Metcalf, I'm going to hand you a copy of  
18 Exhibit No. 5 in your deposition.

19           A     Yes, sir.

20           Q     Mr. Metcalf, you have seen the line item  
21 about halfway down where my expert has annotated  
22 "stuck clock," don't you?

23           A     That's correct, sir.

24           Q     Now, can you tell me the duration of that  
25 line item?

1           A     580 minutes.  Something over nine hours.

2           Q     Now, as I understand it, your opinion is  
3 that this is not -- is not a stuck clock.

4           A     Yes, sir, that's exactly right.

5           Q     This is a nine hour and 40 minute phone  
6 call.

7           A     That's correct.

8           Q     In fact, you went through these greenbars  
9 and you could find not a single phone call, no matter  
10 what the duration -- 580 minutes, long or short, not a  
11 single phone call that in your opinion was a stuck  
12 clock?

13          A     I could find no call for which there was any  
14 documentation to indicate that that particular call  
15 was a stuck clock, referring, in fact, to this page,  
16 this exhibit -- and we went through this in the  
17 deposition.  If you go down about ten lines below the  
18 580 that we're talking about, you'll note that there's  
19 a 164-minute call to exactly the same number, a  
20 230-minute call to exactly the same number, and in the  
21 spread sheets that Lopez-Levi put together trying to  
22 prove stuck clocks, between these companies, these two  
23 called numbers, there were 17 calls over one hour in a  
24 15-day period.

25          Q     In fact, you could have a switch that is



1 sensitive and has a hardware failure with regard to  
2 this particular number, couldn't you?

3       **A**     Sir, that isn't how stuck clock works.

4               A stuck clock would not be based in any way  
5 on the call that would come from one customer to  
6 another customer. That's a switch malfunction. if it  
7 occurs. And the switch malfunction has nothing to do  
8 with any two calls -- any two calls between two  
9 parties.

10       **Q**     I respectfully disagree with you, sir. But  
11 still let me ask you --

12               **MR. SELF:** Excuse me, Commissioner Clark,  
13 this is getting argumentative and I think it's  
14 inappropriate for cross examination.

15               **MR. PARSONS:** I'm going on to another  
16 question.

17               **COMMISSIONER CLARK:** Mr. Parsons, just  
18 remember that we need to get testimony from the  
19 witness.

20               While we've taken a break, just so I'm  
21 clear, what you're saying is the switch has no  
22 dedicated port to a particular line.

23               **WITNESS METCALF:** No, ma'am.

24               **COMMISSIONER CLARK:** It's the port that's  
25 coming into it. And a stuck clock is a switch

1 problem. So if it is -- you're saying that if it is a  
2 switch problem -- is a stuck clock always a switch  
3 problem?

4           **WITNESS METCALF:** Yes, ma'am. I'm saying  
5 that when this customer picks up the phone and dials,  
6 it goes to the local phone company; in that case  
7 Southern Bell. Southern Bell then routes it to the  
8 switch of Mr. Esquenazi, which was, in fact, the  
9 switch at WorldCom. It would have come in logically  
10 on a different port every time. It's not a dedicated  
11 line in any way, so it just would have switched the  
12 call and gone in on a different line. It would have  
13 gone out on a different line. And it ultimately would  
14 have arrived at the end user's local phone office,  
15 again, in this case Southern Bell, and gone to the  
16 customer over their last mile loop.

17           There is no way in that that you would have  
18 had 17 calls in 15 days hung between the same two  
19 parties. It appears to me, applying a little logic to  
20 this rather than just making a broad assumption that  
21 all calls over a hour are stuck, that these two  
22 customers talk quite a bit, that they talk for long  
23 periods of time, and I would make the judgment that  
24 none of these were stuck clock billings.

25           **COMMISSIONER CLARK:** But a stuck clock is

1 always a switch problem? (Pause)

2           **WITNESS METCALF:** You know, within the  
3 limits of the word "always", yes, ma'am, typically  
4 it's a hardware problem rather than a software  
5 problem. A switch problem.

6           **COMMISSIONER CLARK:** Hardware problem and  
7 switch.

8           **WITNESS METCALF:** A switch problem.

9           **Q**        **(By Mr. Parsons)** Mr. Metcalf, couldn't it  
10 be a central office problem with a destination --  
11 destination ANI?

12           **A**        A central office problem with that customer.

13           **Q**        Yes, sir.

14           **COMMISSIONER CLARK:** Just so I'm clear, when  
15 you say "central office" do you mean the local  
16 exchange company's central office?

17           **MR. PARSONS:** Yes.

18           **WITNESS METCALF:** There is some possibility  
19 that that could occur, sir. But I would also note all  
20 of the other calls on that same page, from that same  
21 customer, to that same customer, for much shorter  
22 periods of time -- there are 17 over one-hour calls in  
23 a 15-day period. There are also 17 calls on this  
24 page.

25           **MR. PARSONS:** We covered this.

1           **MR. SELF:** Excuse me, I believe the witness  
2 is entitled to answer the question.

3           **MR. PARSONS:** I don't agree in this case.

4           **COMMISSIONER CLARK:** I agree with that,  
5 Mr. Self, but he also has to answer yes or no first  
6 and I didn't hear that.

7           **WITNESS METCALF:** I'm sorry.

8           **COMMISSIONER CLARK:** Mr. Parsons, ask your  
9 question again.

10          **Q**        **(By Mr. Parsons)** Isn't it possible this  
11 could be a central office problem at the destination  
12 end?

13          **A**        Yes, it is possible.

14          **Q**        Couldn't there be a problem with the answer  
15 supervision at the destination end?

16          **A**        I'm sorry, sir?

17          **Q**        Couldn't there be a problem with the answer  
18 supervision at the destination end?

19          **A**        Yes, true. That, too, is possible. But if  
20 that were true, that would -- if that were true, it  
21 would be consistent across many calls. Again, going  
22 back to the 17 calls on the page, on the one exhibit  
23 that you have produced here, we see a number of calls  
24 that terminated immediately, or presumably terminated  
25 immediately because they are short calls.

1 I'll also mention, Mr. Parsons, that in  
2 going back through the \$51,000 worth of complaints  
3 that I saw in this case, I did not see a complaint  
4 from this customer complaining about being billed for  
5 580-minute calls or 230-minute calls that it didn't  
6 make. And, again, for the same reason we talk about  
7 the \$51,000 in complaints, I believe, therefore, it  
8 did not happen in this case.

9 COMMISSIONER CLARK: Mr. Metcalf, let me ask  
10 you, let me go back -- and Mr. Parsons, ask your two  
11 questions again. You asked if it were a destination  
12 problem in the central office.

13 MR. PARSONS: Central office problem with  
14 the destination end.

15 COMMISSIONER CLARK: And what was the other  
16 one?

17 MR. PARSONS: Whether there could be an  
18 answer supervision problem at the destination end.

19 COMMISSIONER CLARK: Let me ask a question  
20 this way. If that were true, would every call be hung  
21 up?

22 WITNESS METCALF: Yes, ma'am. Probably  
23 between those two points, yes. Or it would happen  
24 very often.

25 Q (By Mr. Parsons) Sir, you have some

1 technical expertise, don't you, to testify as you do  
2 for your career?

3 A Yes, sir.

4 Q Have you ever heard of a flaky error?

5 A I have heard of flaky errors before, yes,  
6 sir.

7 Q It's an error, a mechanical problem, a  
8 software problem. Sometimes it happens, sometimes it  
9 doesn't. And for that reason it's hard to track down.

10 A Sir, you're surmising.

11 Q Okay. Let me go on, if I could. You  
12 mentioned the \$51,000 in credits. You're aware,  
13 aren't you, Mr. Metcalf, that my client had hundreds  
14 of thousands of dollars in accounts receivable from  
15 customers that it wrote off, aren't you?

16 A No, sir, I'm not aware of that.

17 Q You don't think that just because a customer  
18 doesn't ask for a credit, that that always means a  
19 customer pays his bill, do you, sir?

20 A I have no idea what Mr. Esquenazi's success  
21 was in collecting from his customers.

22 Q Let me ask you this yes or no question:  
23 Just because a customer doesn't ask for a credit, that  
24 doesn't imply the customer has to pay his bill?

25 A No, sir. But I would imagine that if I

1 check the April bill for this customer, and the May  
2 bill for this customer, and he was still there, it  
3 would be an indication that he paid the 580 minutes  
4 and 164 minutes and the 230 minutes and didn't claim  
5 hung call in this instance.

6 Q That's what you imagine. That's the word  
7 you used, isn't it, sir, you "imagined"?

8 A Oh, I -- I factually believe that.

9 Q Mr. Metcalf, I'd like to hand you Exhibit  
10 No. 6 in your deposition. (Pause)

11 Mr. Metcalf, could you look at the second  
12 pair of underlying calls on your Exhibit No. 6?

13 A All right, sir.

14 Q Now, those are two calls to the same  
15 destination, starting at the same minute, each of them  
16 of duration one minute, aren't they?

17 A That's correct, sir.

18 Q Those are true duplicate calls, aren't they,  
19 sir?

20 A I don't know, sir. There is a chance that,  
21 for instance, it could be two very short faxes that  
22 took place in the same period of time. It is  
23 unlikely.

24 Q It couldn't be two short faxes in the same  
25 period of time, though, could it, sir, because they

1 are of both duration one minute?

2 A The billing would have been one minute. The  
3 calls would have been of 30 seconds or 24 seconds.

4 Q They are the same minute; they are the same  
5 duration. They are duplicates, aren't they?

6 A I will agree, yes. I will agree that this  
7 looks like a duplicate call. I have offered another  
8 explanation for what could have occurred.

9 Q Now, you know my clients were peppered with  
10 call entries like these, don't you, sir?

11 A No, sir.

12 Q You did a review, didn't you?

13 A I did a review.

14 Q You saw a lot of calls like this and, in  
15 fact, they were easy to spot because my expert had  
16 annotated them?

17 A I saw several calls -- I saw examples of the  
18 954 to 955 example right below it. I did not see that  
19 many of the one you're citing now.

20 Q Now, your position is that my client should  
21 get no credit in this proceeding today for duplicate  
22 calls or overlapping calls?

23 A My position is that your client -- no, sir  
24 that's not my position. My position is that your  
25 client should get no more than was cited by Ms. Welch



1 in her analysis.

2 Q And you haven't done any independent  
3 analysis to determine that her position is correct,  
4 have you?

5 A My analysis of duplicate calls -- no, sir.  
6 My analysis of duplicate calls was done on different  
7 work papers, and, in fact, I paid more attention to  
8 the tape, the CDR printouts, that did not show the  
9 same kind of error.

10 Because the time points verified the  
11 supposition I made when you started your first  
12 question in this series; that it could have been two  
13 short calls rather than a duplicate, as this appears  
14 that it might be.

15 Q You know that Lopez-Levi did a sample of ten  
16 days for two different months randomly taken as a  
17 basis for their conclusion that there was substantial  
18 duplicate calls, don't you, sir?

19 A I'm aware that Lopez-Levi did what you  
20 suggested.

21 Q And you did not do a sample of your own to  
22 come to any contrary conclusion?

23 A No, sir, I didn't. I was brought in  
24 originally as a rebuttal witness to look at the work  
25 product of the other witnesses and see whether it made

1 sense. I did do some independent analysis, but I did  
2 spend a lot of time on Mr. Shulman's work.

3 Q When I took your deposition, sir, I asked  
4 you if you had read the depositions of Mr. Resposo or  
5 Mr. Signorelli who testified about duplicate billings.  
6 Have you done so in the interim?

7 A No, sir, I haven't.

8 Q Has anyone told you what they testified to?

9 A No, sir. We had a short discussion during  
10 the deposition about dup and de-dup, but I have not  
11 had further conversations on those two depositions  
12 afterwards.

13 Q De-dup was a program they wrote to try to  
14 catch the duplicate billings and expung them; isn't  
15 that right?

16 A Yes, sir.

17 Q That didn't peak your curiosity to go look  
18 at those depositions and find out whether there was a  
19 switch that was generating duplicate billings?

20 A No, sir. I told you how duplicate billings  
21 could occur. And I can do that for the Commission,  
22 too, if you want it.

23 Q No, sir.

24 A Commissioners, generally -- before the end  
25 of a CDR tape you will start another one so that you

1 have an overlapping period.

2 COMMISSIONER CLARK: Just a minute,

3 Mr. Metcalf, did you say no?

4 MR. PARSONS: I said no, sir.

5 WITNESS METCALF: Oh, okay. All right.

6 COMMISSIONER CLARK: I thought you were  
7 conducting your own redirect. (Laughter)

8 Q (By Mr. Parsons) Let me leave duplicates  
9 for now, Mr. Metcalf, and go on to another area.

10 You made a point about credits being  
11 provided at a particular rate to TSI. Could you  
12 describe for me again what your position is on how  
13 credits were provided to TSI?

14 A On how or why, sir?

15 Q On what rate they should have been provided?

16 A If you supply a customer a credit, in effect  
17 you're saying the call never occurred. If the call  
18 never occurred, the customer should not be billed for  
19 the call, nor should Mr. Esquenazi be billed for the  
20 call. So the customer, in effect, would have 22 or 23  
21 cents per minute taken off his bill, and Mr. Esquenazi  
22 would have 13 or 14 cents a minute taken off his bill.  
23 And ATC would have been the only one who would have  
24 lost money in that because ATC still would have paid  
25 the access charges for the time that that was

1 connected.

2 Q So the logical consequence of that is  
3 that -- in your opinion is that ATC should make a  
4 credit to TSI at the wholesale rate, and TSI should  
5 credit its customer at the retail rate?

6 A That's correct.

7 Q That way TSI losses money on every single  
8 transaction?

9 A TSI loses revenue; they do not lose money.  
10 The call never occurred on a call that's credited.

11 Q It's a loss of revenue, though.

12 A For a call that never occurred.

13 Q From a cash flow perspective it's a loss of  
14 revenue.

15 MR. SELF: I object. The question has been  
16 asked and answered.

17 COMMISSIONER CLARK: Mr. Parsons?

18 MR. PARSONS: I'm emphasizing the impact of  
19 the crediting on my client's operating business, cash  
20 flow perspective, so I asked the question in that  
21 context.

22 COMMISSIONER CLARK: The objection is that  
23 it's been asked and answered.

24 MR. PARSONS: It was a different question,  
25 because I inserted at the beginning of the question

1 "from a cash flow perspective."

2 COMMISSIONER CLARK: Go ahead and answer it,  
3 Mr. Metcalf. If you can.

4 WITNESS METCALF: If a call never occurred,  
5 Mr. Parsons, there was no revenue to any party. The  
6 customer didn't pay it, Mr. Esquenazi didn't pay it.  
7 A credit was granted. It was eliminated.

8 What, in fact, happened was that when  
9 Transcall did give Mr. Esquenazi \$170,000 worth of  
10 credits, they were, in fact, giving him -- I don't  
11 know what the inverse of that would be, but, say,  
12 \$250,000 worth of costs, of his costs, in credit for  
13 bills he was incurring from Transcall.

14 Q (By Mr. Parsons) Thank you, sir.

15 Mr. Metcalf, you reached a conclusion about  
16 the effect of the timing error. That is the timing  
17 from TP-1 through TP-6 or TP-7 on TSI's billings.

18 A Yes, sir.

19 Q I understand it, although Ms. Welch  
20 indicated a credit was due for the timing error, if I  
21 can call it that, you do not think any credit is due?

22 A Yes, sir.

23 Q And your theory on that is that the timing  
24 scheme used by Transcall was authorized in Telus's  
25 tariff?

1           A     No, sir. I'm sorry, say that again. The  
2 timing used by Transcall was authorized in the  
3 Transcall tariff.

4           Q     Yes, sir.

5           A     No, sir. My basis for TSI -- Transcall was  
6 billed based on the TSI tariff, not based on the  
7 Transcall tariff. That's what they were contracted to  
8 do by TSI. TSI's tariff specified that its customers  
9 were supposed to be billed TP-1 to TP-7. That's what  
10 Transcall did.

11          Q     Okay. So it's not just a Transcall tariff.  
12 In fact, more importantly, it's a TSI tariff that in  
13 your judgment allowed the timing that was used.

14          A     Yes, sir. In this case the agreement  
15 specified that TSI -- that Transcall would bill for  
16 TSI according to TSI's tariff. That's what they did.

17          Q     And TSI's tariff applies to billing of the  
18 end user, not to the billing between Transcall and  
19 TSI; isn't that right?

20          A     TSI's tariff, yes, sir, that's correct.

21          Q     So insofar as the timing goes, the timing is  
22 controlled by -- if at all, by the agreement between  
23 TSI and Transcall, not by the end user tariff?

24          A     Transcall billed TSI at the wholesale level  
25 based on the agreement. Transcall billed for TSI

1 TSI's customers based on the TSI tariff.

2 Q So your answer is yes --

3 A Per the agreement.

4 Q -- with that explanation?

5 A Yes, sir.

6 Q And the contract between the parties never  
7 specified that this particular timing arrangement was  
8 allowed by Transcall, did it?

9 A This particular timing arrangement?

10 Q TP-1 through TP-7?

11 A TP-1 through TP-7 was not mentioned in the  
12 agreement.

13 Q Now, the amount here we're talking about is  
14 fairly large, isn't it? Kathy Welch indicated \$83,000  
15 to \$111,000.

16 A Yes, sir.

17 Q One final question in this area before we  
18 move on. Do you know who prepared TSI's tariff?

19 A No, I don't.

20 Q Would it surprise you do learn that Telus  
21 prepared TSI's tariff?

22 A No, sir, it wouldn't. But that has no  
23 relevance to the TP-1 to TP-7 issue. TP-1 to TP-7, the  
24 issue I was disputing, is that the agreement specified  
25 what charges TSI would pay Transcall for service. TP-1

1 through 7 was the basis for that agreement. It was  
2 also the basis for the TSI tariff, and that's what  
3 Transcall billed TSI throughout the term of their  
4 relationship.

5 Q You're familiar with the prior order entered  
6 by the Commission regarding TP-1 through TP-7 timing,  
7 sir?

8 A As it applied to Transcall's end users, I'm  
9 aware that there was an agreement by Transcall to  
10 change their billing from TP-1 to TP-7, and instead  
11 bill only on TP-6 to TP-7.

12 Q There was also an award, was there not, to  
13 end users?

14 MR. SELF: I object as to the  
15 characterization that Mr. Parsons is using. The Order  
16 speaks for itself as to what there was. There was a  
17 settlement of the case, and I believe that  
18 Mr. Parsons' characterization is not correct.

19 COMMISSIONER CLARK: Mr. Parsons?

20 MR. PARSONS: I'm simply bringing out the  
21 fact that the Commission seems to disagree with one  
22 aspect of this witness's testimony based on its  
23 earlier ruling and that would be relevant to the  
24 issues.

25 COMMISSIONER CLARK: Well, I would agree



1 with Mr. Self, the Order speaks for itself.

2 Q (By Mr. Parsons) Mr. Metcalf, you reviewed  
3 Ms. Welch's audit report, didn't you?

4 A Yes, sir.

5 Q Let me ask you about some specific audit  
6 disclosures she made.

7 Audit Disclosure 2 reflected beginning  
8 balance extension errors in the bills. Do you agree  
9 with that, sir?

10 COMMISSIONER CLARK: Before you answer that,  
11 I need to understand what extension errors are. I  
12 didn't get that from either of your testimony -- I  
13 figure it's an accounting term.

14 WITNESS METCALF: It is an accounting term,  
15 ma'am. If you have minutes times rates it extends out  
16 to the amount owed. It's basically either the number  
17 of calls or the number of minutes times the rate per  
18 minute would give you an extension to a certain total.  
19 And then if you add up all of the totals you come up  
20 with the total amount of the bill. Generally those  
21 things are just called extensions.

22 COMMISSIONER CLARK: What's an extension  
23 error? You added wrong or multiplied wrong?

24 WITNESS METCALF: Yes, ma'am. That's  
25 exactly what it is in this case. Correct minutes

1 times a correct rate, and when someone was  
2 transcribing it it was mistotalled as it was typed,  
3 and, therefore, we have in this case something they  
4 are calling an extension error.

5 COMMISSIONER CLARK: Thank you.

6 Q (By Mr. Parsons) In fact, some of those  
7 extension errors in the particular line were huge, but  
8 by the time you got to the footed total, they had been  
9 brought back correct again.

10 A Yes, sir. And that was never charged to  
11 TSI. And it, in fact, is not a number that is even a  
12 part of the Lopez-Levi estimate, nor is it a part of  
13 ours.

14 Q I'll ask you this: It doesn't inspire  
15 confidence in that billing system, does it, sir?

16 A I don't believe that was a billing system,  
17 sir. I think there was some testimony somewhere along  
18 the line, I believe it was one of the early  
19 depositions of Ms. Daurio or one of the other  
20 Transcall folks from a few years ago, that those  
21 numbers were taken off of one page and literally typed  
22 onto another page.

23 Q That doesn't inspire confidence, that  
24 process, does it?

25 A And in 30-and-a-half months of that kind of

1 activity you have might find a few of those.

2 Q In Audit Disclosure No. 8, Ms. Welch thought  
3 that TSI should be credited based on the 9 seconds  
4 that was apparently added at the Telus switch to a  
5 number of calls over a period of time. Do you agree  
6 to that disclosure?

7 A I do, sir.

8 Q Audit Disclosure 13, Ms. Welch found that a  
9 small amount of billing had occurred after telephone  
10 numbers had been disconnected. Do you agree to that  
11 disclosure, sir?

12 A Yes, sir, I do, and I've calculated the  
13 total amount of that, if you want to include that.

14 Q It's not large, I'll concede that, sir.

15 A It's under \$200, even with interest for  
16 seven years.

17 Q In Audit Disclosure No. 15, Ms. Welch found  
18 errors in answer qualifiers. I understand, sir, you  
19 agree with her analysis, but you think the errors are  
20 allowable because they are within the 2% range.

21 A Yes, sir.

22 COMMISSIONER CLARK: I have a question. Are  
23 we into your rebuttal?

24 WITNESS METCALF: We sure are, na'am; been  
25 there for about ten minutes.

1           **COMMISSIONER CLARK:** Well, it's okay with me  
2 if we're not going to repeat it when he's on the  
3 stand.

4           **MR. PARSONS:** I won't repeat it.

5           **COMMISSIONER CLARK:** Mr. Self?

6           **MR. SELF:** Mr. Metcalf's testimony does  
7 discuss issues relating to the audit in his direct.

8           **COMMISSIONER CLARK:** It's either now or  
9 later, right?

10          **MR. SELF:** Kind of a gray area.

11          **COMMISSIONER CLARK:** All right.

12          **Q**        **(By Mr. Parsons)** About the 2% error that's  
13 allowable, Mr. Metcalf, you're not saying that  
14 Transcall essentially gets a free 2% error that it  
15 never had to credit the customer for even if it's an  
16 obvious error, are you, sir?

17          **A**        No, sir, I'm not.

18          **Q**        What is the impact then of exceeding the 2%  
19 error rate?

20          **A**        I'm sorry. The impact --

21          **Q**        Of exceeding the 2% error range.

22          **A**        Sir, I don't think there's ever an attempt  
23 to hit a 2% mark. I mean, they don't do 98 things  
24 correctly and suddenly decide to blow the last two  
25 just to fit within the tariff. Their goal was to be

1 100% accurate as any corporation's would be. But  
2 because of the technology of the billing of the times,  
3 and we're talking the '89 to '92 period, computers and  
4 billing systems for resellers to carriers were not as  
5 sophisticated as they are now in answer supervision,  
6 in hardware performance, and even as it rolled out  
7 from that to billing systems and extension errors. So  
8 people would put the 1 to 2% number in there to give  
9 them a little flexibility so they didn't get hammered  
10 for having a single mistake. In the case of  
11 Transcall, they never hit the 2% in any documents that  
12 I saw.

13 Q So I understand this: Whether it's a 1%  
14 error or a 3% error, if the customer documents the  
15 error, the customer gets the credit?

16 A Absolutely. And that occurred in this case.

17 Q Let me ask you the follow-up question now.  
18 Say it's a 3% error. Doesn't that mean that the  
19 vendor is in default under the tariff or the contract?  
20 That's what it means to exceed the 2% mark?

21 MR. SELF: Objection to the extent that he's  
22 asking for a legal conclusion about the application of  
23 the tariff.

24 MR. PARSONS: I don't think I am,  
25 Commissioner. It's a question we should have the

1 answer to.

2           **COMMISSIONER CLARK:** I think I'll allow the  
3 question as asking Mr. Metcalf, in industry practice,  
4 when you exceed the rate put in the tariff, what does  
5 it mean?

6           **WITNESS METCALF:** I'm sorry, ma'am, I  
7 didn't. --

8           **COMMISSIONER CLARK:** Just the question he  
9 asked. If you were at 3¢, what does that mean? If it  
10 doesn't mean anything, why do you put 1 or 2¢ in  
11 there?

12           **WITNESS METCALF:** I would think that if you  
13 got outside of the 2¢ that's provided for, and the  
14 Commission Staff were out checking its standards and  
15 stuff, you could -- you, as the regulators, might do  
16 something to the company to get them to provide a  
17 better class of service and more accurate billing and  
18 things like that.

19           **COMMISSIONER CLARK:** Would it be the basis  
20 for concluding, as the Commission, that you had not  
21 complied with the tariff and the level of service you  
22 indicated you would provide in the tariff?

23           **WITNESS METCALF:** I think that would be  
24 correct, yes, ma'am. And over -- here we have taken  
25 100% of the billing that occurred during 100% of the

1 period that these folks had a relationship, and it was  
2 down in the 1.3 area based on Ms. Welch's --

3           **COMMISSIONER CLARK:** That's the tolerance  
4 level you would say you're still in compliance with  
5 your tariff.

6           **WITNESS METCALF:** You're within the range  
7 that you said you wouldn't be out of.

8           **COMMISSIONER CLARK:** And if you're out of  
9 it, you're out of compliance.

10           **WITNESS METCALF:** I would say you're out of  
11 compliance, yes, ma'am.

12           **Q**        **(By Mr. Parsons)** Mr. Metcalf, let me ask  
13 you now about the analysis you have been referring  
14 from which you derive the 1.3% error rate.

15                    That was an analysis of raw call detail  
16 records that was performed by the Staff of the  
17 Commission, wasn't it?

18           **A**        That was analysis based on a representative  
19 sample of the period of time that we're talking about,  
20 yes, sir.

21           **Q**        When you say representative sample, it was  
22 really four, five days worth of traffic?

23           **A**        That's correct. They used five days;  
24 Mr. Shulman used a few more days.

25           **Q**        Now, the basis for that traffic were backup

1 tapes for the Telus switch that your client has in  
2 storage now; isn't that right?

3 A I don't know whether those five tapes are  
4 right now in the possession of the Commission Staff or  
5 of WorldCom.

6 Q Wherever they are, the basis was 517 backup  
7 tapes with raw call detail from the Telus switch?

8 A Yes, sir. That's correct.

9 Q Now, those 517 tapes have not been provided  
10 to my client, have they?

11 MR. SELF: I have to object, Commissioner  
12 Clark. This is getting to be argumentative.

13 Mr. Parsons has filed two motions with  
14 respect to the raw call detail tapes, or the CDR  
15 tapes. That's been ruled upon. I believe these  
16 questions were also asked and answered in the  
17 deposition that's now part of the record, if not of  
18 this witness, of at least one other witness. And it's  
19 simply not relevant to the discussion that we're  
20 having now. Or, excuse me, it's not relevant to the  
21 issues that are now before the Commission.

22 COMMISSIONER CLARK: Mr. Self, what is your  
23 objection? Argumentative? Relevancy?

24 MR. SELF: Yes. Both. And it's the subject  
25 matter of a ruling that Commissioner Garcia has issued



1 not once but twice now.

2 MR. PARSONS: It's relevant to the issue of  
3 the adequacy --

4 COMMISSIONER CLARK: What's the question  
5 again? You haven't gotten the data?

6 MR. PARSONS: Yes. My client has never had  
7 this data, so we cannot check the analysis. So it's a  
8 question about the adequacy of the analysis.

9 MR. SELF: He's arguing over, Commissioner  
10 Clark.

11 COMMISSIONER CLARK: Commissioner Garcia,  
12 tell me -- or Staff, what is the background of this?  
13 Ms. Keating.

14 MS. KEATING: I apologize. I didn't catch  
15 that question.

16 COMMISSIONER CLARK: Mr. Parsons is  
17 questioning the witness about getting backup data, and  
18 asking whether or not that was produced. And  
19 apparently there's been two rulings on that issue.

20 MS. KEATING: That's correct. That's  
21 referring to the CDR tapes.

22 COMMISSIONER CLARK: Uh-huh.

23 MS. KEATING: Those were initially  
24 requested. And there was a determination made that  
25 the information that had been pulled off those tapes

1 by Staff's auditors would be provided. However, the  
2 tapes themselves would not be provided in view of the  
3 fact that there was information relating to other  
4 Transcall customers besides TSI on those tapes.

5           There was a second request for those tapes  
6 to be produced. There had been an offer by Transcall  
7 to provide the tapes to an independent -- either an  
8 independent expert or to counsel for TSI. That was  
9 rejected. And in view of the prior ruling that there  
10 was information on the tapes themselves, that, in  
11 fact, related to customers other than Transcall's  
12 customers, that they were again denied their Motion to  
13 Compel.

14           **COMMISSIONER CLARK:** Mr. Parsons, it sounds  
15 like this issue has been resolved and there's no need  
16 to question this witness.

17           **MR. PARSONS:** The discovery aspect has  
18 certainly been resolved. I think there's still an  
19 issue about the adequacy of the analysis and whether a  
20 better analysis could have been done.

21           **COMMISSIONER CLARK:** What is your question?

22           **MR. PARSONS:** My client was never provided  
23 copies of the tapes or the data on the tapes.

24           **COMMISSIONER CLARK:** We've established that  
25 you didn't get them.

1           **MR. PARSONS:** Okay.

2           **MR. SELF:** Commissioner Clark, with one  
3 clarification: He did receive a copy of all of the  
4 output that the Commission Staff generated from the  
5 CDR tapes, and there were multiple tapes involving  
6 four, five days.

7           **COMMISSIONER CLARK:** With that  
8 clarification.

9           **MR. PARSONS:** Actually, I did disagree with  
10 that clarification. What we got were paper. We had  
11 the output that had been in electronic format and  
12 amenable to analysis by computer. We got that on  
13 paper.

14           **COMMISSIONER CLARK:** Okay.

15           **MR. PARSONS:** It's not suitable for what we  
16 want to do with it.

17           **MR. SELF:** He got the same thing the  
18 Commission Staff auditor looked at, the same thing  
19 that I got.

20           **COMMISSIONER CLARK:** You disagree that you  
21 got the same information the Staff got.

22           **MS. KEATING:** I hate to drag this out, but I  
23 would point out that we were not asked for electronic  
24 documentation. We did not have it, but we were not  
25 asked for it either.

1                   **COMMISSIONER CLARK:** I appreciate all of  
2 that, Mr. Parsons. I think that issue is resolved.

3                   **MR. PARSONS:** I have no further questions.

4                   **COMMISSIONER CLARK:** Thank you. Staff.

5                   **CROSS EXAMINATION**

6 **BY MS. KEATING:**

7                   **Q** Good morning, Mr. Metcalf.

8                   **A** Good morning, Ms. Keating.

9                   **Q** I'd like to follow up on questions that  
10 counsel from TSI asked, and this is regarding the  
11 timing of calls.

12                   **A** All right.

13                   **Q** I'd like to start out with a hypothetical.  
14 And what I'm looking for is not a legal conclusion,  
15 it's just your opinion as an expert in the industry.

16                   **A** All righty.

17                   **Q** If there were no provision in the contract  
18 relating to the timing of certain calls, what would  
19 Transcall have referred to in order to time calls?

20                   **A** Transcall would have referred to the TSI  
21 tariff to its customers because that's what they were  
22 supposed to bill based on.

23                   **Q** Okay. Did that scenario apply for any  
24 aspect of the relationship between TSI and Transcall?

25                   **A** Yes, ma'an.

1 Q Could you explain?

2 A Well, the agreement basically provided for  
3 the rates that Transcall would charge TSI -- again  
4 I'll use the word at the wholesale level -- for the  
5 minutes it was providing. The tariff and the various  
6 plans -- and Mr. Esquenazi had four plans that I have  
7 seen that he sold, in effect, to his customers --  
8 provided rates that were to be charged to those  
9 customers based on those plans. And the tariff would  
10 have determined the provisions under which those plans  
11 were charged. So to the extent that TSI's tariff said  
12 to its customers, "I'm going to charge you on a TP-1  
13 to TP-7 basis," and then the particular plan that he  
14 had offered to that customer said, "I'll charge you in  
15 6-second increments at this rate or 1-minute  
16 increments at another rate," the billing system of  
17 Transcall was set up to take those pieces of  
18 information and turn those into the white pages that  
19 were then sent to Mr. Esquenazi, on which he put his  
20 cover sheets and whatever deals he had negotiated with  
21 his customers and then sent out to them.

22 Q Just to be clear, the timing was based on  
23 two different provisions. You actually timed calls  
24 based on the TSI tariff but then recalculated the  
25 timing in the bill to TSI itself?

1           A     No, ma'am. The timing to TSI's customers  
2 was based on the TP-1 to TP-7 provision of TSI's  
3 tariff to TSI's customers. All that ATC did, or  
4 Transcall did in this case, was bill according to the  
5 directions of TSI to them regarding TSI's tariff.

6           Q     Did Transcall bill any of TSI's end users  
7 directly?

8           A     Not intentionally. That did happen. If  
9 Mr. Esquenazi or TSI took over one of Transcall's  
10 customers, in effect they went from being one of  
11 Transcall's customers to being one of his customers,  
12 the early billing systems -- and, again, this goes  
13 back to the technology they were using -- sometimes  
14 stripped the data off and sent it out on an ATC bill  
15 before it was sent out on a TSI bill. That was  
16 corrected later by reversing the process. They took  
17 Mr. Esquenazi's customers first and then all the  
18 others were billed on ATC bills.

19          Q     Can you estimate how many customers were  
20 billed due to that problem?

21          A     We have a worksheet on that, ma'am. (Pause)  
22                 I'm going to refer back to Ms. Welch's  
23 documents because I believe she came up with a number  
24 in that.

25          MR. PARSONS: Can I see is a copy of the

1 worksheet the witness is testifying from?

2           **MR. SELF:** I believe he said -- when he  
3 finds it he can identify what it is. (Pause)

4           **WITNESS METCALF:** Yes, sir. I have here  
5 both the worksheet and the Audit Disclosure was No. 14  
6 in Ms. Welch's testimony, actually attached to her  
7 document.

8           **Q**        **(By Ms. Keating)** And you agree with the  
9 number that Ms. Welch came up with?

10           **MR. SELF:** Excuse me one second, Beth. Just  
11 for the record, are we looking at exhibit KLW-1  
12 Page 49 of 79, which is attached to Ms. Welch's direct  
13 testimony?

14           **WITNESS METCALF:** Yes, sir, we are. And the  
15 page that I'm talking about where there were some  
16 accounts that for a period of time Transcall billed,  
17 would be 50 of 79. (Pause)

18           **COMMISSIONER CLARK:** Mr. Parsons, are you  
19 there?

20           **MR. PARSONS:** Yes, I am.

21           **COMMISSIONER CLARK:** Okay.

22           **MR. SELF:** I think Mr. Metcalf was asked the  
23 question of if you agree with that number.

24           **WITNESS METCALF:** The truth is I don't know.  
25 I know that the numbers there add up to that bottom

1 line number of 16,000. I do not know the actual  
2 number. I did not do this research.

3 COMMISSIONER CLARK: Okay.

4 Q (By Ms. Keating) For those accounts that  
5 you did review of customers that were direct billed by  
6 Transcall, were you able to determine which tariff  
7 those customers were billed out of? (Pause)

8 A I didn't check that, Ms. Keating.

9 Q I'd like to turn now to your direct  
10 testimony, and I'm looking at Page 5, and in Lines 5  
11 through 9 you make reference to flexibility and some  
12 tolerance with regard to technical limitations?

13 A Yes, ma'am.

14 Q Would you explain what you mean by  
15 flexibility and some tolerance?

16 A Yes, ma'am. At this time, back in the late  
17 '80s, mid-'80s, late '80s, early '90s, there was not  
18 hardware supervision on every call. There was  
19 software supervision used in many cases. And the  
20 software was not as sophisticated as the software is  
21 today. So, therefore, there were times when the  
22 answer qualifiers might have been billed when busy  
23 signals might have been billed when long rings used to  
24 be a problem that everyone understood. Don't let the  
25 phone ring eight or nine times or you'll get charged



1 for the call. That is the environment of technology  
2 at that time.

3           Nowadays almost everything is hardware or  
4 very, very sophisticated supervision, and you can let  
5 the phone ring or you can have busy signals and none  
6 of them will ever be recorded. Virtually none of them  
7 will ever be recorded. So that was what I'm saying,  
8 is some tolerance for the technology that everyone was  
9 using back then.

10           Q     Specifically would that have applied to the  
11 timing of calls?

12           A     No, ma'am. I think the timing was pretty --  
13 was pretty clear. Based on the five days that I saw,  
14 the T-1 time -- there was not a lot of question in my  
15 mind T-1, T-6 and T-7 time.

16           Q     I refer you now to Page 8 of your direct and  
17 I'm looking in Lines 9 through 23. There you discuss  
18 Staff's Audit Disclosure No. 7, which concerns a  
19 adjustment for changes in the billing format?

20           A     Yes, ma'am.

21           Q     Lines 11 through 7 you indicate that  
22 relevant documents may not have been available to  
23 Ms. Welch.

24           A     Yes, ma'am.

25           Q     Then you further indicate that Transcall

1 agreed to grandfather certain rates to TSI subject to  
2 TSI fulfilling certain modified arrangements.

3 A Yes, ma'am.

4 Q And you also indicate that TSI backed out of  
5 these arrangements, which were apparently the  
6 concession to grandfather the old rates; is that  
7 correct?

8 A Yes, ma'am.

9 Q Okay. First, just to be clear, do you know  
10 why the documents you've referred to here were not  
11 made available to Ms. Welch?

12 A No, ma'am, I don't know. These just came up  
13 when I was looking at her report, and going through  
14 other documents I remembered this one and we found it.

15 Q Okay. Can you explain a little bit further  
16 how TSI reneged on these modified arrangements?

17 A Yes, ma'am. Of course, you remember May, in  
18 effect, is where the termination of the whole  
19 relationship occurred.

20 If I can just kind of summarize, in March  
21 they came up with this new arrangement and TSI was  
22 going to start using the switchless reseller rates  
23 that were authorized by the tariff. Eventually they  
24 were going to take over their own billing and do some  
25 other items too.

1           So the switchless resellers rates were  
2 charged in March. In April there was some  
3 conversation that went on that apparently said charge  
4 me the old rates -- which were slightly lower,  
5 granted -- charge me the old rates until I get my act  
6 together.

7           And so they charged the old rates in May  
8 which was a lower amount -- or in April which was a  
9 lower amount. In May they came along and May was when  
10 everything went down. As a matter of fact, he was  
11 terminated before the billing for May would have been  
12 done. And in May the bill was sent out for the  
13 switchless reseller rates again.

14           The difference between Ms. Welch's number  
15 and my number is after all was said and done, I have  
16 the document here that says, "I agree to the  
17 switchless reseller rates." So I went through and  
18 calculated March, April and May at the switchless  
19 reseller rates. Ms. Welch went back and said -- who  
20 did not have this document at the time, said, "It  
21 seems to me that the old contract should have  
22 prevailed." So she did it at the lower rates. And  
23 that's the difference between our two numbers on that  
24 issue.

25           Q       Exactly how were these modified arrangements

1 documented?

2 A How was what, ma'am?

3 Q The modified arrangements that you've  
4 referred to, were those documented?

5 A Actually, there was -- this was almost a  
6 bridging agreement between the switchless reseller  
7 arrangement and the former agreement that they had  
8 had. And the bridging agreement was never signed -- I  
9 mean, I'm sorry -- the bridging agreement was signed  
10 but the final agreement was never signed because the  
11 termination took place during this month.

12 COMMISSIONER CLARK: So the answer is the  
13 documentation you have is the bridging agreement.

14 WITNESS METCALF: Yes, ma'am. And it is  
15 signed, as you'll note on Page 2, by Mr. Esquenazi.

16 Q (By Ms. Keating) But there's no further  
17 documentation?

18 A The final agreement was not signed.

19 Q Looking now on Page 9 of your direct, there  
20 you discuss Staff's Audit Disclosure No. 4. On Lines  
21 7 through 14 you indicate that you didn't find any  
22 letters or telephone log notes objecting to the bill  
23 that TSI received in this instance?

24 A Yes, ma'am.

25 Q And, therefore, you concluded that

1 Mr. Esquenazi must have agreed with Transcall's  
2 original action?

3 A Yes, ma'am.

4 Q And this is just to be clear, but did you  
5 find any instances where there was either a letter or  
6 a phone log showing TSI's objection to something being  
7 billed?

8 A Yes, ma'am. Mr. Esquenazi, based on all of  
9 the documentation I saw through the relationship,  
10 whenever he didn't agree with something, it was very  
11 clear, either in written form or phone call form. The  
12 phone calls would become notes that Ms. Daurio or  
13 someone else wrote on various bills. So he was fairly  
14 vocal when he did not agree with something that was  
15 going on. I, therefore, concluded that in the absence  
16 of any of that kind of documentation, he must have  
17 agreed with it.

18 Q Also on this same page, on Line 18, and this  
19 goes on to Page 10 you state that you believe certain  
20 credits were ignored in Witness Welch's audit report?

21 A Yes, ma'am. In Ms. Welch's audit report --  
22 let me refresh myself here. (Pause) Right. All  
23 right.

24 In Ms. Welch's audit report she made the  
25 determination that an excess credit of 10,000 had been

1 billed. She also made the comment that Transcall had  
2 given TSI a credit in the amount of \$9990 that should  
3 not have been given; that they had, in fact, given him  
4 a credit they should not have been given. And in her  
5 report she ignored that amount.

6 I went back, and in a effort to try and get  
7 this thing the way it should have been done, because  
8 both of our Exhibit 1s are, in effect, our analysis of  
9 what was owed by TSI to Transcall, I said if it should  
10 have been given, it should have been given and I put  
11 it on my number.

12 Q What documents did you review to determine  
13 there was an excess credit in these months?

14 A It is part of -- it is part of Disclosure 4  
15 at Page 9.

16 Q And that was the only documentation that you  
17 reviewed? There was no further documentation?

18 A Yes, ma'am.

19 Q Going back to Page 9 of your direct, and  
20 this is in Line 7. You indicate that you also  
21 disagree with the overstatement of TSI's bill for  
22 \$38,108.59 in September, November and December of  
23 1991?

24 A Yes, ma'am.

25 Q Do you agree with Staff's adjustment for the

1 overstatement of bills in November and December of  
2 1990?

3 A Yes, ma'am. The \$500 adjustment and the 245  
4 adjustment?

5 Q Uh-huh.

6 A Yes, ma'am, I agree with those two.

7 Q What's the difference that you find between  
8 the 1991 and 1990 adjustments?

9 A It is as I stated, ma'am. Again,  
10 Mr. Esquenazi was extremely vocal when something --  
11 when he determined that something was incorrect. We  
12 heard nothing from him. So, therefore, not hearing  
13 that something is not right, you assume it's due and  
14 owing.

15 Q Okay. I'd like to refer you now to your  
16 exhibit DSM-2, and I'm looking at Pages 8 through 10.

17 A Yes, ma'am.

18 Q And I'm just looking for a little  
19 clarification on this exhibit. Are those screens for  
20 Transcall's billing programs? Those pages?

21 A Say that again, ma'am.

22 Q Are those screens from Transcall's billing  
23 programs? What exactly are these pages?

24 A Yes, ma'am, I believe they are. They are.  
25 These were done in May of '92. They were done based

1 on the switchless reseller rates and program that had  
2 been implemented. And these are the totals that apply  
3 to TSI.

4 Q Looking on Page 8.

5 A Of that --

6 Q Of that same exhibit.

7 A Yes, ma'am.

8 Q I notice that there is an account listed  
9 here interstate and intrastate charges for the  
10 Acclaim! 800 SW product.

11 A Yes, ma'am.

12 Q On the following pages, Pages 9 and 10, I  
13 don't see any detail regarding this product. Can you  
14 explain why this isn't identified on Pages 9 and 10?

15 A No, ma'am. I don't know. I don't know  
16 what -- I did not do a detailed investigation of what  
17 a Acclaim! 800 was. I was presuming it was just an  
18 800 product.

19 Q Do you know how many months of billing these  
20 screens cover? (Pause)

21 Mr. Metcalf, if you don't know that's fine.

22 A No, ma'am. No, ma'am.

23 Q Do you recall if you reviewed the screen for  
24 April and May of 1992?

25 A Again, I didn't hear you, ma'am.



1 Q Do you recall if you reviewed the billing  
2 screen for April and May of 1992?

3 A A long time ago, yes, ma'am. I mean a long  
4 time ago, a couple of months ago.

5 Q Are these billing screens included in your  
6 report?

7 A I don't believe they are, ma'am.

8 Q Okay. I have just one more question and  
9 this is a follow up on questioning by TSI's counsel  
10 representing to duplicate calls.

11 Is it possible for calls, or a number of  
12 calls dialed to the same number simultaneously, to be  
13 reflected on a bill as three separate calls made in  
14 the same minute but for those calls not to be  
15 duplicate calls?

16 A Yes, ma'am, absolutely. If three different  
17 people picked up the phone at exactly the same time  
18 and all three dialed the same number at exactly the  
19 same time and it was a PBX, they would be picked up on  
20 three different lines at the end user location and  
21 none of those would be duplicate calls.

22 MS. KEATING: Thank you, Mr. Metcalf.

23 COMMISSIONER CLARK: Redirect?

24 Commissioners, do you have any questions?

25 REDIRECT EXAMINATION

1 BY MR. SELF:

2 Q I think I've one or two questions.

3 Going back to the question that Mr. Parsons  
4 asked you, multiple questions about loss of revenue  
5 and impact on cash flow and that kind of stuff, I just  
6 have one question. If TSI gave a credit to its  
7 customers at the retail rate, and Transcall gave TSI a  
8 credit also at the retail rate, what would be the  
9 impact on TSI's cash flow of that transaction?

10 A That was exactly what I was trying to  
11 explain to Mr. Parsons.

12 In effect, TSI would make its profit on that  
13 call even though the call never occurred; the net  
14 effect of the call is that it never occurred. They  
15 would have been paid their profit on that call, though  
16 the customer wouldn't have paid it, WorldCom would  
17 have paid TSI for it.

18 Q And one other question. Mr. Parsons asked  
19 you if you knew whether or not -- and asked you to  
20 accept the fact that Telus had prepared TSI's tariff.  
21 Do you recall that question?

22 A Yes, sir, I do.

23 Q Have you ever worked with carriers or worked  
24 with companies that assist carriers in the preparation  
25 of tariffs?

1           A     I work for companies that do that, sir, and  
2 it's standard practice.

3           Q     Now, I'm not going to ask you for your legal  
4 opinion since you're not an attorney, but based upon  
5 your experience, if a -- one of these tariff  
6 companies, we'll call it that, helps an IXC prepare a  
7 tariff, who is responsible for that tariff ultimately?

8           A     It is ultimately the company that files the  
9 tariff and that is responsible for the tariff and that  
10 is charging some end user for that tariff. So in this  
11 case TSI would have been responsible for that tariff.

12          Q     Just one second (Pause)

13                 Okay. I'd like to ask you one other follow  
14 up, to go back to my first question, if you had a  
15 situation where a customer did not -- a TSI customer  
16 did not request a credit from TSI --

17          A     All right, sir.

18          Q     -- and TSI requested and received from  
19 Transcall a credit for that call, what's the impact on  
20 TSI's cash flow of that situation?

21          A     Well, obviously, Mr. Self, then they have  
22 been paid twice for that call, and they would not only  
23 pick up the margin, but they would have picked up the  
24 wholesale cost for one of them, so they would have  
25 been compensated -- their margin would have been even

1 higher than just doubling it 200%. It would have been  
2 in the 300-and-some-odd percent amount.

3 MR. SELF: Commissioner Clark, I have no  
4 further redirect.

5 I do have a point of clarification since  
6 Mr. Metcalf is here. There is an exhibit attached to  
7 Mr. Metcalf's deposition that upon further examination  
8 of it yesterday we determined that it was -- that  
9 Mr. Metcalf had printed out the wrong document. And  
10 I've discussed this with Mr. Parsons and Ms. Keating.  
11 And what I'd like to do is for the record to reflect  
12 that the correct -- it's a spreadsheet. It's the  
13 Commission's interest calculation. And I'd either  
14 like to have that separately numbered and identified  
15 or --

16 COMMISSIONER CLARK: Give me a title. We'll  
17 separately identify it.

18 MR. SELF: Title of this is Release 5SQR  
19 Testing.

20 COMMISSIONER CLARK: As revised or --

21 MR. SELF: As revised. That's fine.

22 COMMISSIONER CLARK: That will be marked as  
23 Exhibit 14.

24 (Exhibit 14 marked for identification.)

25 MR. SELF: And I have copies that I'll

1 distribute to anyone else that wants them.

2           **COMMISSIONER CLARK:** Anything else,  
3 Mr. Self?

4           **MR. SELF:** That's all I have.

5           **COMMISSIONER CLARK:** Do you want to move  
6 those exhibits into the records?

7           **MR. SELF:** Yes, I'd like to do that now.

8           **COMMISSIONER CLARK:** Show them admitted  
9 without objection.

10           (Exhibit 13 and 14 received in evidence.)

11           I'd like to understand from the parties how  
12 much more time we need for this hearing. I'd like to  
13 get an estimate from both parties as to the time to  
14 cross examine the remaining witnesses.

15           **MR. SELF:** Can we caucus for one quick  
16 minute?

17           **COMMISSIONER CLARK:** Staff, I'm expecting  
18 you to do the same. And Mr. Parsons, I need to know  
19 how long your cross examination of Ms. Welch,  
20 Ms. Daurio, Mr. Metcalf and Mr. Sickle will be.

21           **MR. PARSONS:** I can estimate that now. I'd  
22 say for Ms. Welch 45 minutes; for Mr. Sickle, ten  
23 minutes; for Ms. Daurio, very brief.

24           **COMMISSIONER CLARK:** Ten minutes?

25           **MR. PARSONS:** Yes.

1           **COMMISSIONER CLARK:** Mr. Metcalf?

2           **MR. PARSONS:** Ten minutes.

3           **COMMISSIONER CLARK:** Okay.

4           **MR. SELF:** Commissioner Clark, we think ir

5 total at the most between Mr. Shulman and

6 Mr. Esquenazi that it would be a hour.

7           **COMMISSIONER CLARK:** Staff?

8           **MR. SELF:** I'm sorry, I forgot. We may

9 have -- we may have five minutes for Ms. Welch.

10           **COMMISSIONER CLARK:** Okay.

11           **MS. KEATING:** We have about five minutes for

12 each of the remaining witnesses.

13           **COMMISSIONER CLARK:** All right. We'll go  
14 ahead and take lunch break for half an hour. It would  
15 be my desire to conclude this today. Is half an hour  
16 sufficient? Do you need any more time for any other  
17 things?

18           **MR. PARSONS:** I'm just thinking that lunch  
19 itself may take longer than half an hour.

20           **COMMISSIONER CLARK:** Why don't we do 45  
21 minutes and come back at 1:00.

22           **MR. PARSONS:** Fine.

23           **COMMISSIONER CLARK:** Thank you. All right.

24 We'll adjourn until 1:15.

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1 (Transcript continues in sequence in

2 Volume 2.)

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