

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of :  
Proposed amendment to Rule :  
24-4.110, F.A.C., Customer :  
Billing for Local Exchange :  
Telecommunications Companies: :  
(cramming and truth in :  
billing). :

UNDOCKETED



PROCEEDINGS:      **RULE DEVELOPMENT WORKSHOP**  
                         **West Palm Beach, Florida**

BEFORE:              COMMISSIONER J. TERRY DEASON  
                         COMMISSIONER SUSAN F. CLARK

DATE:                 **Monday, March 8, 1999**

TIME:                 Commenced at 12:00 p.m.  
                         Concluded at 1:10 p.m.

PLACE:                Palm Beach County Governmental Center  
                         Jane Thompson Memorial Chambers  
                         301 North Olive Avenue  
                         West Palm Beach, Florida

REPORTED BY:        H. RUTHE POTAMI, CSR, RPR  
                         FPSC Commission Reporter

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**APPEARANCES:**

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

**KELLY BIEGALSKI**, Florida Public Service  
Commission, Division of Communications, 2540 Shumard  
Oak Boulevard, Tallahassee, Florida 32399-0870,  
appearing on behalf of the **Commission Staff.**

## I N D E X

## WITNESSES

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

(Workshop convened at 12:00 p.m.)

**COMMISSIONER DEASON:** Call this workshop to order, and we will begin by having the notice read.

**MS. BIEGALSKI:** Notice was published in the February 19th, 1999, Florida Administrative Weekly that a rule development workshop concerning proposed amendments to the customer billing rule would be held at this time and place.

**COMMISSIONER DEASON:** Thank you. We'll take appearances.

**MR. BECK:** My name is Charlie Beck. I'm with the Office of Public Counsel, appearing to sponsor witnesses today.

**MS. BIEGALSKI:** Kelly Biegalski with the Florida Public Service Commission.

**COMMISSIONER DEASON:** Thank you. My name is Terry Deason. I'm a member of the Public Service Commission. With me today is Commissioner Susan Clark. We will constitute the panel of Commissioners which will be here to conduct this particular workshop.

We're holding a number of these workshops around the state. A number have been held. I believe there are two more yet to be held after today's

1 workshop. There is a schedule of these workshops  
2 which appears in the bulletin which should have been  
3 provided to you at the table outside the auditorium.

4 This bulletin also contains some of the  
5 basic information about the purpose of these  
6 workshops, the schedule of the workshops, and a little  
7 bit information about how we conduct public hearings  
8 and a little bit about the Public Service Commission.

9 We have some representatives here today from  
10 the Public Service Commission. Ms. Biegalski just  
11 introduced herself. She probably also greeted you  
12 outside the auditorium this morning. Also with us  
13 today is a representative of the Public Counsel's  
14 Office. Mr. Beck just introduced himself. I think  
15 Mr. Poucher, also from Public Counsel's Office, is  
16 also in the auditorium and maybe just walked out, and  
17 he is also available to anyone who has questions.

18 There probably are -- in fact, I know there  
19 are members of the industry here; and by industry, I  
20 mean representatives of the telephone companies. Most  
21 likely in this area it's BellSouth, I believe.

22 If members of BellSouth would just raise  
23 your hand. I'm sure these folks would be more than  
24 happy to assist you with any questions that you may  
25 have. If there are any other representatives of other

1 telephone companies that may be here and I don't  
2 recognize you, please just raise your hand so we'll  
3 know that you're here. (Pause) Very well. I don't  
4 think there are any of the telephone companies  
5 represented.

6 Let me take this opportunity to welcome you  
7 to this workshop. We're here today to hear from you.  
8 We're in the preliminary phases of an investigation of  
9 the Public Service Commission concerning a problem we  
10 refer to as cramming, which, in essence, is the  
11 practice of unauthorized charges appearing on a  
12 subscriber's telephone bill.

13 We have recently concluded investigations  
14 and adopted a rule concerning slamming, which is the  
15 unauthorized change in one's long distance carrier.  
16 We went through that process. It was successful. We  
17 had hearings throughout the state. We got very  
18 important input from customers. We're trying to  
19 duplicate that here today.

20 Hopefully, though we're a little bit more on  
21 the front end with the cramming problem, and our hope  
22 is to get meaningful input and adopt a rule which  
23 would prevent cramming from becoming as big a problem  
24 as we encountered with this slamming situation.

25 We're going to begin today's workshop by

1 viewing a video. It contains some of the basic  
2 information about the problem of cramming and the  
3 procedure we're going to follow at the Florida Public  
4 Service Commission. It's a short video, I believe,  
5 somewhere about five to seven minutes. We're going to  
6 view that.

7 After we've viewed the video, I'm going to  
8 ask members of the public who wish to testify to stand  
9 and be sworn in. This is so your testimony can be  
10 part of the record. This proceeding here is being  
11 reported by a court reporter employed by the Public  
12 Service Commission.

13 Your comments will become part of the  
14 official record. It can be relied on by the  
15 Commission and can be reviewed by all the parties  
16 interested in this matter and help them formulate  
17 meaningful positions.

18 Are there any preliminary matters which I've  
19 overlooked? (No response.)

20 Very well. At this time then, we're going  
21 to view the video.

22 (Video played.)

23 **COMMISSIONER DEASON:** As Chairman Garcia  
24 mentioned in the video, it's important for customers  
25 to review the telephone bills to see if there are any

1 unauthorized charges.

2 He also mentioned an 800 number that you can  
3 call the Commission. You can also contact the  
4 Commission -- and this information is on the front  
5 page of the yellow special report -- that there's an  
6 Internet access as well.

7 And, also, I failed to mention earlier that  
8 the last page of this yellow special report is  
9 designed to be detached for those members of the  
10 public who wish to provide written comments to the  
11 Commission. You may provide those comments and mail  
12 this page and send it to the Public Service  
13 Commission, if you wish to do that instead of making a  
14 public statement here today.

15 At this time, I'm going to ask Ms. Biegalski  
16 to provide a brief overview of the Staff's preliminary  
17 work on a rule proposal to address the cramming  
18 situation. And I'm going ask Ms. Biegalski to do that  
19 now.

20 **MS. BIEGALSKI:** Keep in mind that these are  
21 only draft rules. The first modification to the rules  
22 we are proposing deals with the billing section. We  
23 are going to try and put the customers back in control  
24 of their telephone bills.

25 It allows for a billing block option in

1 which the customer could only be billed by their  
2 prescribed local, local toll or toll service provider  
3 on their local telephone bill. The telephone number  
4 will be provided to the local providers' billing  
5 entities to assure no unauthorized charges will occur.  
6 In addition, the local exchange providers will  
7 implement appropriate screening codes and dialing  
8 blocks for these accounts.

9           The second modification to the rules  
10 incorporates a change made in the 1998 legislative  
11 session to revise the definition of information  
12 services to include 900 and 976 numbers. It  
13 specifically excludes Internet services.

14           The next modification deals with the truth  
15 in billing section of the rules. It prohibits  
16 misleading or unclear advertising that may induce  
17 callers to use a service and then be charged hidden  
18 fees.

19           Our final modification pertains to service  
20 standards for any company that bills for itself or on  
21 behalf of companies providing regulated or  
22 nonregulated services. It requires companies to  
23 maintain and answer a toll free number in order for  
24 customers to contact the company for further  
25 information on the service they may use or have used.

1 It will also require all rates and surcharges be  
2 disclosed to the caller.

3 And this concludes the summary of the rules.

4 **COMMISSIONER DEASON:** Thank you,  
5 Ms. Biegalski.

6 As I indicated earlier, before we receive  
7 customer testimony, I want to ask all members of the  
8 public who wish to make a formal statement here today  
9 to stand and raise your right hand. This is necessary  
10 to have your comments become a record of today's  
11 proceeding.

12 So with that, I'm going ask all members of  
13 the public who wish to testify to please stand and  
14 raise your right hand.

15 (Witnesses collectively sworn.)

16 **COMMISSIONER DEASON:** Mr. Beck is going to  
17 be calling members of the public who wish to testify.  
18 When you hear your name called, we ask that you come  
19 forward to the podium directly in front of the court  
20 reporter. We ask that you begin by giving us your  
21 name and your address. If you think it would be  
22 helpful to the court reporter, you may wish to spell  
23 your name so that it is accurate in the record.

24 And with that, Mr. Beck, you may call your  
25 first witness.

1           **MR. BECK:** Thank you, Commissioner Deason.  
2 The first witness is Ada Valdes.

3

- - - - -

4

**ADA VALDES**

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

7

**DIRECT STATEMENT**

8

9           **WITNESS VALDES:** I'm Ada Valdes, and the  
10 problem is now with the local --

11           **COMMISSIONER DEASON:** Ms. Valdes, I noticed  
12 that you didn't stand earlier to be sworn. Is that  
13 okay that we swear you in?

14           **WITNESS VALDES:** Okay.

15           (Witness Valdes sworn.)

16           **COMMISSIONER DEASON:** Please proceed.

17           **WITNESS VALDES:** Ada Valdes, and it's A-D-A;  
18 Valdes is V as in Victor, A-L-D-E-S, and the company  
19 that I work for is Barfield, Inc. And my problem is  
20 not with the local companies, it's with the long  
21 distance company and with this -- looking at the bill,  
22 because I work in payables -- we was -- they was  
23 billing us without a contract. We did have a contract  
24 in the past, but it had expired already.

25           When I called them they say, oh, we notice  
that we do not have a contract. But I say to them,

1 can we get some of the money back, because we have  
2 paid two years without a contract; and they mentioned  
3 to me that maybe six months they can refund back. But  
4 after I make so many calls -- and this happened in  
5 1997, December '97, and I haven't got a solution yet.

6 **COMMISSIONER DEASON:** Let me ask you a  
7 question. You contacted the company which was billing  
8 you for services, but you did not have a contract?

9 **WITNESS VALDES:** Correct; yes.

10 **COMMISSIONER DEASON:** And what is the name  
11 of that company?

12 **WITNESS VALDES:** MCI.

13 **COMMISSIONER DEASON:** And this is on behalf  
14 of your employer, Barfield, Incorporated?

15 **WITNESS VALDES:** Correct.

16 **COMMISSIONER DEASON:** MCI was the  
17 presubscribed carrier, so when you dialed 1 and a long  
18 distance number, MCI handled that call; is that  
19 correct?

20 **WITNESS VALDES:** Yes, correct.

21 **COMMISSIONER DEASON:** Have you called the  
22 Public Service Commission, our consumer line, to file  
23 a complaint?

24 **WITNESS VALDES:** Yes, I did. I had a case  
25 already.

1           **COMMISSIONER DEASON:** Okay? So the case is  
2 still pending at the Public Service Commission?

3           **WITNESS VALDES:** Yes. Yes.

4           **COMMISSIONER DEASON:** Did you receive any  
5 refunds yet from MCI?

6           **WITNESS VALDES:** No.

7           **COMMISSIONER DEASON:** Any other questions?

8           **COMMISSIONER CLARK:** I take it, are you  
9 still working with our Staff on this?

10          **WITNESS VALDES:** Yes.

11          **COMMISSIONER CLARK:** Who is the person  
12 you're working with?

13          **WITNESS VALDES:** Where?

14          **COMMISSIONER CLARK:** At the Public Service  
15 Commission.

16          **WITNESS VALDES:** Okay. The latest, I have  
17 sent a letter to the -- Mr. Garcia. That was like a  
18 month ago just to follow up, because I haven't --

19          **COMMISSIONER CLARK:** Mr. Chairman, I think a  
20 good idea would be to have our Staff give Ms. Valdes a  
21 call and update her on where we are with her complaint  
22 if it has been that long.

23                 Do you have a number where we can reach you?

24          **WITNESS VALDES:** Yes, I do.

25          **MS. BIEGALSKI:** I obtained her business card

1 and have the information.

2 **COMMISSIONER CLARK:** And you'll be getting  
3 back with them then. I have no other questions.

4 **MR. BECK:** Ms. Valdes, Charlie Beck. I'm  
5 not clear. Was there another long distance company  
6 that you wish to serve you?

7 **WITNESS VALDES:** Yes. We switched to  
8 another company. Right now we're using Sprint.

9 **MR. BECK:** Okay. But MCI was your -- became  
10 your carrier without your asking them to?

11 **WITNESS VALDES:** No. We did have a contract  
12 with them back in the early '90s that expires, and  
13 then we switched to Sprint, but they continually bill,  
14 and I'm still getting billed.

15 **MR. BECK:** Thank you.

16 **COMMISSIONER DEASON:** Ms. Valdes, we thank  
17 you for coming and sharing this with us. Our Staff  
18 with follow up with you. We appreciate your taking  
19 time out of your schedule to inform us. Thank you.

20 - - - - -

21 **MR. BECK:** The next witness is Sari or Ellie  
22 Kearnes.

23

24

25

**SARI KEARNES**

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

**DIRECT STATEMENT**

4  
5 **WITNESS KEARNES:** My name is Sari Kearnes,  
6 and I live at 541 Emerald Way West in Deerfield Beach.  
7 My current phone number at that time was  
8 (954)421-3290.

9 I'm originally from New York City and then  
10 New Jersey, and I've been down here, this is going on  
11 my third year. I am currently a professionalized  
12 skater. I tour with small individual shows. I used  
13 to be with large shows, but now I'm doing dinner  
14 theater shows, and I also teach in various skating  
15 rinks around New Jersey, New York and Florida, and I  
16 go for seminars and such things.

17 This all started, I believe it was  
18 October 1997. My mother was staying at my house  
19 because I was going to be in and out of town for about  
20 three months, through October, November, December,  
21 January, approximately; and I have some dogs and cats.  
22 She was staying at my house.

23 And we -- my mother got a call from AT&T  
24 saying that there is something suspicious going on  
25 with your phone bill and phone calls are being made at

1 3:00, 4:00, 5:00 in the morning, and we've noticed  
2 that you've never had that kind of history before and  
3 your phone bills have been X amounts of dollars, and  
4 now we get a phone bill and it's about \$900.

5 So it starts; the nightmare begins. As it  
6 turned out -- I have all the papers here -- I started  
7 to receive phone bills with 900 numbers on them, calls  
8 being made at 3:20 in the morning, 3:35 in the  
9 morning, 4:00 in the morning. One after another, like  
10 20 minutes, 30 minutes. And over, I would say,  
11 through from October through December I received about  
12 \$1,800 worth of charges of phone calls to various 900  
13 numbers; Guyana, Africa. They were dispatched.

14 I don't know how exactly that works, but I  
15 guess if you contact this phone number and then they  
16 dispatch you -- and they said to me that it can be put  
17 anywhere in the world.

18 I called two of these companies. One of  
19 them was American Telenet; had charges for \$259.32. I  
20 had called -- I got a hold of this number, and I  
21 called them and he said that they did recordings  
22 periodically of callers. So I asked to hear the  
23 recordings, and some gentleman came on. He said his  
24 name was Mark and he was from Florida.

25 Now, I don't know anybody named Mark. I

1 live alone and, as I said, my mother was staying with  
2 me, and I was out of town for three months touring.

3 As I said, this person was not somebody that  
4 I know. So I -- they started to send me bills upon  
5 bills upon bills and I explained to them I don't --  
6 I'm not responsible for these calls. I don't call sex  
7 numbers at 3:00 and 4:00 in the morning if I was home.  
8 My mother is living in my home. She's 75 years old.  
9 She's not about to. There's something drastically  
10 wrong. And as I said, AT&T did call us and say,  
11 something is suspicious because we know you've never  
12 had this history of phone calling before.

13 Another company that I had was Mirage  
14 Marketing. I do have all these documents if you'd  
15 like to see them. They were charging me for \$374.81.  
16 They said that they did not do recordings on their  
17 people who call in. And again, these are 900 numbers,  
18 and various different -- every month I have  
19 everything, copies -- live talk numbers, 900 numbers  
20 again, talk line, 900 numbers again. I mean, all of  
21 these were adding up to three and \$400. Some of these  
22 calls were like \$90 each.

23 I did -- contacted the National Fraud  
24 Information Center, and they sent me their brochures  
25 and directed me to calling either the District

1 Attorney or calling the FCC.

2           What I did was I called the FCC, and they  
3 gave me -- I ended up faxing all the information, the  
4 copies of my bills, articles that had been -- come out  
5 in the Sun Sentinel, and letters from companies that  
6 they were being sent to me, I faxed to a Mr. Jason  
7 Polino (phonetic), and I never got a response.

8           I have never heard anything from the FCC or  
9 the National Fraud, and every time I try to call  
10 somebody and ask them, they say, well, we don't have a  
11 record of your information; you need to send all of  
12 this again; and I just don't seem to be getting  
13 anywhere with these people.

14           Most of it, I believe, has been straightened  
15 out. As far as I know, American Telenet and Mirage  
16 have paid because I haven't received anything from  
17 them lately. I was receiving like -- I was receiving  
18 threatening letters about my credit and whatnot. I'm  
19 still getting one bill from AT&T for \$73 which they  
20 refuse to take care of.

21           I called Southern Bell. I asked them if it  
22 was possible for people to tap into your line. I had  
23 them come and look at my line. They said that it's  
24 possible for people to put a line into your box. I  
25 don't really understand a lot of this stuff. It's

1 very technical to me. But they said it is possible.  
2 I just -- I don't really know. I need some help with  
3 this. I have no idea.

4 **COMMISSIONER DEASON:** Let me ask: The  
5 American Telenet and Mirage Marketing, those amounts  
6 have been resolved?

7 **WITNESS KEARNES:** As far as I know. They  
8 have not been contacting me lately.

9 **COMMISSIONER DEASON:** You never paid them?

10 **WITNESS KEARNES:** I have never paid anybody  
11 anything. I refuse. I told them that I want copies  
12 of the recordings. I want them to show me how it's --  
13 it would be impossible. I didn't make these phone  
14 calls. And they can look from two years worth of  
15 phone bills, and my average phone bill is about \$35.  
16 First of all, I wasn't there, and my mother doesn't  
17 make those kind of calls, and I'm not paying for  
18 something that I did not do.

19 **COMMISSIONER DEASON:** So these charges are  
20 no longer appearing on your bill?

21 **WITNESS KEARNES:** No, they do not appear on  
22 my bill anymore, but I've never received a letter --

23 **UNIDENTIFIED SPEAKER:** (Inaudible comments  
24 from audience member.)

25 **WITNESS KEARNES:** My mother is telling me

1 that from BellSouth she got on the last bill a balance  
2 of \$533.

3 **UNIDENTIFIED SPEAKER:** (Inaudible comments  
4 from audience member.)

5 **COMMISSIONER DEASON:** Do you have copies of  
6 your latest bill?

7 **WITNESS KEARNES:** No. I don't have a -- do  
8 you have a copy of the latest bill with you?

9 **UNIDENTIFIED SPEAKER:** (Inaudible comments  
10 from audience member.)

11 **WITNESS KEARNES:** No. I didn't know about  
12 this. I'm just being informed about this.

13 **COMMISSIONER DEASON:** Have you contacted  
14 anyone here at the Public Service Commission with this  
15 problem? I know you indicated earlier --

16 **WITNESS KEARNES:** I faxed --

17 **COMMISSIONER DEASON:** -- you contacted the  
18 FCC.

19 **WITNESS KEARNES:** Right. No; just the  
20 information -- the Fraud and the FCC.

21 **COMMISSIONER DEASON:** First of all, let me  
22 ask you this: Were you informed that you could put a  
23 block on your line?

24 **WITNESS KEARNES:** Oh, I put blocks on at the  
25 end of October from 900 numbers, collect calls, any

1 kind of international. I did all of that.

2 **COMMISSIONER DEASON:** And once you've done  
3 that, there have been no further billings --

4 **WITNESS KEARNES:** No.

5 **COMMISSIONER DEASON:** No further --

6 **WITNESS KEARNES:** Well, it was actually, I  
7 think, December when I did that, because that's when  
8 the phone calls stopped. I had phones -- phone calls  
9 from October through December.

10 **COMMISSIONER DEASON:** And those are the  
11 amounts that obviously that you did not make, and  
12 you're --

13 **WITNESS KEARNES:** No.

14 **COMMISSIONER DEASON:** -- disputing --

15 **WITNESS KEARNES:** Yeah. It came out to  
16 approximately about \$1,700, \$1,800. I believe that  
17 BellSouth did absorb some of the charges, and AT&T did  
18 absorb some of them. And as I said, I have not  
19 received -- my mother is saying now that she has a  
20 balance on the phone bill she just received, but I  
21 didn't know anything about that until this moment.

22 But I haven't received anything from Mirage  
23 or Telenet with a letterhead saying this hasn't been  
24 taken care of and -- because they were sending me  
25 threatening letters about my credit; they were going

1 to take me to court, and whatnot, and I haven't heard  
2 anything since.

3           **COMMISSIONER DEASON:** I believe -- and,  
4 Staff, correct me if I'm wrong -- I believe in our  
5 current rules we have a prohibition against -- for 900  
6 and 976 calls, that those calls are in dispute, that  
7 there should not be any contacting credit bureaus  
8 indicating that amounts are not being paid unless --

9           **WITNESS KEARNES:** Well, the still --

10           **COMMISSIONER DEASON:** -- the dispute is  
11 resolved. These --

12           **WITNESS KEARNES:** They like to threaten you.

13           **COMMISSIONER DEASON:** And that's not  
14 appropriate either.

15           **WITNESS KEARNES:** No, it's not.

16           **COMMISSIONER DEASON:** So I'm going to ask  
17 you at the conclusion of the hearing today if you've  
18 got copies that you can leave --

19           **WITNESS KEARNES:** Absolutely.

20           **COMMISSIONER DEASON:** -- with Ms. Biegalski,  
21 please do so, and she probably will wish -- well, she  
22 may wish for you to send a copy of your latest bill if  
23 there's still disputed charges on that bill.

24           **WITNESS KEARNES:** Okay. I made xerox copies  
25 of everything, like five copies, so you can have one

1 of each.

2           **COMMISSIONER DEASON:** And when you meet with  
3 Ms. Biegalski, if BellSouth is so inclined to -- and  
4 if you would have no objection, they may wish to  
5 review that matter as well with you.

6           **WITNESS KEARNES:** No, not at all.

7           **COMMISSIONER DEASON:** Further questions?

8           **WITNESS KEARNES:** Well, that's it.

9           **COMMISSIONER DEASON:** Thank you.

10          **WITNESS KEARNES:** Thank you.

11          **COMMISSIONER DEASON:** We'll do everything we  
12 can to get this resolved. Hopefully, some of these  
13 charges have already been removed from your bill. If  
14 these charges reappear and you indicate that there's  
15 still some concern about a charge from AT&T, our Staff  
16 will look at that and we'll do everything we can to  
17 assist you, consistent with our jurisdiction and with  
18 the rules that we have in place on this.

19          **WITNESS KEARNES:** I'd just like to say one  
20 other thing, because, as I've said, I really -- you  
21 know, this is the first time I've ever lived -- I've  
22 moved -- like taken care of a home. And as I said, I  
23 was gone at this time.

24                 But when I spoke to, I believe it -- I don't  
25 have her name right in front of me, but it was one of

1 the women that were in charge of marketing at one of  
2 these companies. And I said that -- you know, I  
3 called Southern Bell and I asked them if it's possible  
4 that people can tamper with your line. Because this  
5 is 3:00, 4:00 in the morning and one after another, or  
6 if somehow somebody could sell my phone number, you  
7 know, because as I -- what they did with calling  
8 cards, I didn't know if it was possible, if this --

9           You know, today is -- you think you've got  
10 it all down, and then they're all coming up with new  
11 ways to do things. But she said, well, you know, you  
12 should really -- you should have a lock on your box.  
13 And I said, what box is that. And I guess she means  
14 the outside box on your house, that somebody can  
15 actually plug into your box a line and make phone  
16 calls off of your phone number.

17           **COMMISSIONER DEASON:** That's probably  
18 possible. There's a network interface on most  
19 residences, and I suppose that someone with a  
20 technical expertise and with --

21           **WITNESS KEARNES:** I didn't know --

22           **COMMISSIONER DEASON:** -- the correct  
23 equipment probably could tap into that. I'm not an  
24 expert in that field either, but I would assume it was  
25 possible.

1           That, obviously, would be a criminal act and  
2 probably should be prosecuted, but the difficulty is  
3 finding out who did that and --

4           **WITNESS KEARNES:** Right. Right. My point  
5 is, is that she said this to me. And I said, what box  
6 is that. And she said, well, people can plug into  
7 your box. And I said, well, if you know this, why  
8 don't you send out information to customers? With  
9 everything that's been going on, the slamming and the  
10 cramming and fraud, why not make up a letterhead  
11 saying how best to protect yourself from all different  
12 ways of being -- you know, somebody abusing your  
13 property or your number. Because she's the one that  
14 said it to me. If you know this, why don't inform  
15 people about it.

16           **COMMISSIONER DEASON:** Well, obviously, I  
17 mean, that would be a --

18           **WITNESS KEARNES:** Logical --

19           **COMMISSIONER DEASON:** -- first of all --

20           **WITNESS KEARNES:** Right.

21           **COMMISSIONER DEASON:** -- it would be  
22 trespassing to be on your property without your  
23 permission --

24           **WITNESS KEARNES:** Right.

25           **COMMISSIONER DEASON:** -- and then actually

1 engaging in that activity would amount to theft. I'm  
2 not aware of that being a pervasive problem, and I  
3 don't know if it happened --

4 **WITNESS KEARNES:** I have no idea.

5 **COMMISSIONER DEASON:** -- in your situation  
6 or not, but we'll do everything we can to assist  
7 you --

8 **WITNESS KEARNES:** Okay.

9 **COMMISSIONER DEASON:** -- to get this matter  
10 resolved.

11 **WITNESS KEARNES:** Thank you very much.

12 **COMMISSIONER DEASON:** Thank you.

13 **MR. BECK:** Ms. Kearnes was the last person  
14 who signed up ahead of time.

15 **COMMISSIONER DEASON:** Let me ask if there  
16 are any other members of the public who have joined us  
17 who wish to make a statement. If you'll please just  
18 raise your hand, we'll be glad to hear from you at  
19 this time.

20 Let the record reflect that there are no  
21 other members of the public who wish to make a  
22 statement.

23 I'm going to ask Ms. Biegalski if she has  
24 any concluding comments. Do you have any concluding  
25 comments?

1           **MS. BIEGALSKI:** No, sir.

2           **COMMISSIONER DEASON:** I'm sorry, sir.

3 Please, if you have a statement, you need to come  
4 forward to the microphone.

5           **COMMISSIONER DEASON:** I'm going to ask you  
6 to please raise your right hand. Please begin by  
7 giving us your name and your address.

8

- - - - -

9

**RENOLD GERMAIN**

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

12

**DIRECT STATEMENT**

13

14           **WITNESS GERMAIN:** My name is Renold Germain,  
15 R-E-N-O-L-D, G-E-R-M-A-I-N.

16

17           At this time I don't -- I do not have any  
18 telephone I use right now at this time, but I used to  
19 have this problem in the past; so with BellSouth and  
20 AT&T.

21

22           **COMMISSIONER DEASON:** You used to have what?

23

24           **WITNESS GERMAIN:** Like on the other lady,  
25 the comments she was make this morning, the same  
26 problem was happened for me -- to me in the past. So  
27 at this time it happened, so I would come in here in  
28 case I would like to know if this problem is in --  
29 coming to me after I get the service so who can I get

1 in contact to solve this problem.

2 **COMMISSIONER DEASON:** Have you actually  
3 incurred unauthorized 900 calls on your bill?

4 **WITNESS GERMAIN:** No, that was not happened;  
5 but in the past I use -- sometime I get billing from  
6 BellSouth was more what the call I was using, because  
7 I use long distance, and sometime was carried by the  
8 local telephone company.

9 **COMMISSIONER DEASON:** If you review your  
10 telephone bill and there appear to be charges on there  
11 for services which you did not subscribe to or for  
12 calls which you did not make, you need to contact the  
13 company to begin with, and if it cannot be resolved,  
14 please call the Public Service Commission at our 800  
15 number.

16 If there are charges which are going in  
17 dispute, you can file a complaint with the Commission,  
18 and while those charges are being investigated, you're  
19 not responsible while the dispute is being processed.  
20 Your phone service cannot be disconnected, and we will  
21 do everything that we can to investigate those matters  
22 and see that they are resolved in an appropriate  
23 manner. So that would be the course of action I would  
24 recommend that you take if you encounter such charges  
25 on your bill.

1           **WITNESS GERMAIN:** Yes. Okay. Thank you. I  
2 do have a business I was open in 1986 and I have  
3 telephone I was get for the business, but they -- I  
4 was closing the business in 19 -- I was open the  
5 business in 1987. It was open, but it was close in  
6 1986; but I have the same problem I have before with  
7 the home phone and the business also.

8           So I would like to know what different  
9 between when you have a business phone and home phone,  
10 so is there any difference on the business and the  
11 home phone, if you have different agencies you can  
12 contact if you have any problem.

13           **COMMISSIONER DEASON:** Well, if you have a  
14 problem concerning your business or your residence,  
15 you may call the Commission, and we will investigate  
16 the matter regardless of the nature of the line and  
17 the service you subscribe to.

18           Also, if you have these problems, you may  
19 wish to talk to BellSouth about having a block put on  
20 your line, and these blocks are available for  
21 residence customers as well as business customers.  
22 And by block, what I mean is that it is impossible  
23 with the block in place for someone to use your phone  
24 to access a 900 service or 976, those type services  
25 which there are charges associated with making those

1 calls. So that also is a protection which you could  
2 avail yourself of.

3 **WITNESS GERMAIN:** Okay. Thank you.

4 **COMMISSIONER DEASON:** Thank you for coming.  
5 Any questions? (No response.) Thank you, sir.

6 Is there anyone else who would like to make  
7 a statement or ask questions at this time?

8 Yes, Ma'am. Please come forward. Please  
9 begin with your name and address.

10 - - - - -

11 **SUSAN SPENCER-WENDEL**

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

14 **DIRECT STATEMENT**

15 **WITNESS SPENCER-WENDEL:** I'm Susan  
16 Spencer-Wendel. I'm a reporter for the Palm Beach  
17 Post.

18 And I'd like to ask if you could tell us, do  
19 you have any statistics, or, you know, evidence of how  
20 pervasive the problem of cramming is; and, if so,  
21 could you just tell the members of the public here?  
22 And its most common form. Is it most commonly with  
23 900 numbers that you see appearing, and is it most  
24 commonly -- and do they appear with, like, real doozy  
25 charges such as Ms. Kearnes', or is it, you know,

1 small and incremental ones or just -- could you tell  
2 us in general, inform us a little bit about the  
3 problem?

4           **COMMISSIONER DEASON:** I don't have any  
5 detailed statistics, but I think the problem is fairly  
6 pervasive in the sense that it strikes businesses, it  
7 strikes residences. We have seen problems with 900,  
8 976 calls. In fact, we have provisions in our draft  
9 rules which address those specific calls.

10           We also have encountered problems with other  
11 services, other telephone services such as private 800  
12 lines, beepers, access to the Internet, things that  
13 customers have not subscribed to, yet appear on the  
14 bill. And what we have found is that oftentimes those  
15 type charges appear to be legitimate because it  
16 appears to be for some type of telecom service, and  
17 many customers are not sophisticated enough to  
18 determine if they are just some new charges being  
19 imposed, and that they feel they have to pay. And  
20 that's why we ask customers to review very carefully  
21 their bills to determine if there is anything out of  
22 the ordinary.

23           There are also charges appearing on bills  
24 for nontelephone type services which the providers of  
25 those services or products have a billing arrangement

1 with the telephone company. Those charges should be a  
2 little more obvious to someone if they've not actually  
3 purchased that item or subscribe to that service.

4           However, that, like other charges, have to  
5 be reviewed to determine if they are legitimate.  
6 That's the first step the customers need to take is to  
7 review their telephone bills.

8           Our customer -- our Consumer Services  
9 department may have some statistics. I know that we  
10 keep statistics on the number of complaints that we  
11 get. We kept fairly detailed statistics on the  
12 slamming problems which we have occurred in the past.

13           Perhaps Ms. Biegalski either has some of  
14 those statistics or has access to those, and if she  
15 doesn't have them today, I'm sure she'll be glad to  
16 provide that to you. But I want to ask her now if she  
17 has any general statistics which she could share with  
18 us as far as the pattern of these type abuses and  
19 whether it's increasing or decreasing and whether  
20 there's any particular area of concern which seems to  
21 be the biggest problem.

22           **MS. BIEGALSKI:** I do not have any statistics  
23 with me today. But as Commissioner Deason stated, it  
24 is telecommunications services, nontelecommunications  
25 services. But I can get those for you when I get back

1 to the office.

2           **COMMISSIONER DEASON:** Let me add this:  
3 We're hopeful -- and I indicated this earlier -- we're  
4 hopeful that we're kind of on the front end of this  
5 problem. We know that slamming got to be a tremendous  
6 problem and we took steps -- we thought that we were  
7 taking steps to curtail the slamming problem, but that  
8 problem grew to the point where we felt like we needed  
9 to basically rewrite our rules in that area; and  
10 that's when we earlier went through a process similar  
11 to this to get input from the public and to propose  
12 and adopt some fairly stringent rules concerning  
13 slamming.

14           We're hopeful that that's going to -- it  
15 probably will not 100% eliminate that problem, but  
16 we're hopeful it's going to significantly reduce  
17 slamming problems.

18           We're hopeful that in the situation with  
19 cramming, that we're engaging in this process early  
20 enough that, hopefully, we can prevent cramming from  
21 becoming the extent of the problem that we had with  
22 slamming.

23           I would welcome Mr. Beck, if he has any  
24 comments. I'm sure your office receives complaints,  
25 too, and if you have any indication as to particular

1 areas of concern that you wish to share, we'd be glad  
2 to hear them.

3 **MR. BECK:** Our experience has been the same;  
4 that slamming was a much bigger problem, at least the  
5 number of complaints that we received.

6 I know the Federal Trade Commission has  
7 taken a number of steps up front. They have things  
8 like the Psychic Hot Line, Veterans of American, Voice  
9 Mail Services. There have been a number of complaints  
10 like that, but at least so far at the hearings and at  
11 the Commission and our office, the number of  
12 complaints has been quite a bit less so far than it  
13 was in slamming.

14 **COMMISSIONER DEASON:** But whatever  
15 statistics we have we'll be more than happy to share  
16 that with you.

17 We're in the process at the Commission of  
18 trying to automate our incoming call system. We have  
19 noticed that generally, over the last few years in  
20 particular, the number of calls coming in to the  
21 Commission have increased; and we're trying to get  
22 personnel and infrastructure in place to keep up with  
23 that volume of calls.

24 Of course, those calls involve not only  
25 telephones, but other areas that we regulate as well.

1 And I think Commissioner Clark could substantiate this  
2 as well, but we've seen that the majority of the  
3 increase in calling, those seem to be in the  
4 telecommunications area; and a lot of that is due to  
5 the fact that this industry is being -- competition is  
6 being introduced.

7           We've had competition in the long distance  
8 area. New services are out there for customers. And  
9 while the vast majority of charges which appear on  
10 customers' bills are legitimate and it is a  
11 convenience to customers to have these charges appear  
12 on their bill, there are some providers who  
13 unfortunately try to take advantage of customers and  
14 have inappropriate charges simply appear on the bill  
15 with the hope that customers would not notice those  
16 type charges. And that's the type problem that we're  
17 trying to identify and put measures in place to  
18 prevent.

19           Is there anyone else from the public? Yes,  
20 sir. Please come forward. Just begin with your name  
21 and your address.

22

23

24

25

1                   **J. R. MENCARELLI**

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

4                   **DIRECT STATEMENT**

5                   **WITNESS MENCARELLI:** J. R. Mencarelli, Fort  
6    Lauderdale, Florida. I represent AutoNation USA, a  
7    large retailer of auto -- of the dealerships in the  
8    state.

9                   Another item that has come up on the phone  
10   bills that I've seen is local number portability. I  
11   was wondering if you guys have gotten involved in any  
12   of that.

13                   BellSouth has not charged yet for that.  
14   However, Sprint local service has charged, and GTE has  
15   different rates. And I called the FCC and I got  
16   some -- I sent some e-mail, and it looks like the  
17   charges are determined based on dollar amount  
18   provide -- required to provide local number  
19   portability based on the number of customers.

20                   I was wondering if you guys have done work  
21   on that or if you plan any workshops on local number  
22   portability. Because our work is of significant  
23   dollars. Those rates are all over the place.

24                   **COMMISSIONER DEASON:** I appreciate you  
25   bringing that up.

1           Local number portability, that is a charge  
2 which is authorized by the FCC. So it is an  
3 authorized charge, and it is something that this  
4 Commission has no jurisdiction over. The only thing  
5 is that we can try to ensure that the charges that are  
6 on the bill, that they are described such that  
7 customers know what they're being charged for; but as  
8 far as the amount of the charges and whether there are  
9 to even be charges, that's something that we cannot  
10 control.

11           As indicated earlier, this industry is going  
12 through a transition to a competitive one, even at the  
13 local level. This particular charge is to further  
14 local competition. For there to be competition at the  
15 local level, it's been determined that a customer has  
16 to have the ability to retain their existing local  
17 phone number if they wish to change from BellSouth to  
18 an alternative carrier.

19           Unfortunately, there are costs associated  
20 with having the customer have that option, and it's  
21 also been determined that those costs should not be  
22 placed customer-specific, but they should be a general  
23 cost over the entire system. These were decisions  
24 that were made by the FCC. And I'm hoping I'm  
25 characterizing this correctly, and if I make a

1 mistake, I'll ask someone to please clarify.

2 We're just beginning to see the advent of  
3 these charges. I'm sure there are going to be  
4 numerous customer questions concerning these. In  
5 fact, if our Consumer Services department has not  
6 already done so, they may wish to begin looking at  
7 preparing a brochure or even a public service  
8 announcement describing what these charges are,  
9 because I'm sure there are going to be lots of  
10 questions about those.

11 But the idea is to allow customers the  
12 ability to retain their existing phone number when  
13 they change carriers, and that's basically the  
14 information that I have on it.

15 If BellSouth has any information they wish  
16 to share with the audience, if a representative could  
17 come forward and share that, that would be helpful.

18 I'm sorry. If you have any further  
19 questions, please --

20 **WITNESS MENCARELLI:** No, that's it. I know  
21 that it's a five-year program. It started February  
22 8th until the year 2004, and it's a rate per line, and  
23 it can be as minimum as 50 cents to about \$3.65. I've  
24 seen the Ameritech territory regional operating  
25 companies in the northeast, and it's just divided out.

1 It's cost the divided out amongst the customers. I  
2 was wondering if you guys were going to get involved  
3 in it.

4 **COMMISSIONER DEASON:** Well, perhaps  
5 BellSouth can explain how they are going to share that  
6 information.

7 **WITNESS MENCARELLI:** Thank you.

8 **COMMISSIONER DEASON:** Thank you.

9 Please begin with your name and your  
10 affiliation.

11 - - - - -

12 **NANCY SIMS**

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

15 **DIRECT STATEMENT**

16 **WITNESS SIMS:** Nancy Sims with BellSouth in  
17 Tallahassee.

18 Basically BellSouth is planning at this  
19 point in time to put the charge on the bill starting  
20 in May. We think it will be something under 50 cents.  
21 We're not sure exactly how much that will be. The  
22 charge will be on the bills up to five years or until  
23 we recover our costs, but no longer than five years,  
24 and it's being applied in those areas where we're  
25 implementing local number portability.

1           It's not throughout our entire territory.  
2           It's only in those MSAs that were determined to be the  
3           most targeted areas for competition that we were to  
4           put this in immediately. So it's going to be in our  
5           larger service areas; Jacksonville, Miami, Orlando, in  
6           the larger areas, larger MSAs, but it will start  
7           showing up probably in May.

8           **COMMISSIONER DEASON:** Let me ask you this:  
9           Are you planning some type of a notice or billing  
10          insert to customers explaining what the charge is and  
11          why it's appearing on their bill?

12          **WITNESS SIMS:** Yes, sir, we are. I don't  
13          know whether it's going to go out the month before or  
14          whether it will go out in the bill with the charge to  
15          explain the charge when it shows up. Sometimes people  
16          will read the information if it's associated with the  
17          charge when it first goes in.

18          **COMMISSIONER DEASON:** Now, this is a charge  
19          to recover, as the incumbent local carrier, your cost  
20          of putting in the system to actually facilitate the  
21          number being transported, that the customer can keep  
22          their number when they choose an alternative carrier;  
23          is that correct?

24          **WITNESS SIMS:** That's correct. There will  
25          be limited number portability. You'll be able to move

1 within what they call a rate center, which is a little  
2 bigger than a wire center, but you'll be able to move  
3 within that rate center and keep your telephone number  
4 even if you go with another local exchange company.

5 And we've had to program our switches, put  
6 in extra capacity to handle the extra numbers, to  
7 handle the different treatments of the numbers, and  
8 we'll also have to revise our billing systems in order  
9 to keep track of where these numbers are.

10 **COMMISSIONER DEASON:** But this is not a  
11 service for customers who move out of one territory to  
12 another that they cannot choose to keep their number.

13 **WITNESS SIMS:** Not at this time. We hope  
14 maybe sometime in the future they'll be able to do  
15 that. But every incumbent local exchange company that  
16 is open to competition, like Sprint and GTE and  
17 BellSouth, is having to do this, and they will be  
18 applying charges on their bill.

19 And the charges apply -- and I don't have  
20 this right in front of me -- but there's a specific  
21 formula that the FCC laid out as to the charge for  
22 whether it's residence or business. It's a certain  
23 percentage of the lines depending on whether it's  
24 residence or business, but residence will be a little  
25 less than 50 cents we think.

1                   **COMMISSIONER DEASON:** And that's per month  
2 per line?

3                   **WITNESS SIMS:** That's per month per line.

4                   **COMMISSIONER DEASON:** Now, are you required  
5 to report to the FCC your cost and the extent to which  
6 you're recurring those costs on either a monthly,  
7 quarterly or yearly basis?

8                   **WITNESS SIMS:** Yes. I don't know how often  
9 we have to report it, but right up front we have to  
10 have the rate approved by the FCC before it can go  
11 into effect. And they monitor our cost recovery; and  
12 as soon as we've recovered our costs, the charge comes  
13 off.

14                   **COMMISSIONER DEASON:** Any other questions?  
15 (No response.)

16                   Thank you for coming forward and explaining  
17 that. Something else that we have to look forward to.

18                   Are there any other members of the public  
19 who wish to make a statement at this time? (No  
20 response) Let the record reflect that there are not.  
21 I think Staff has no concluding comments. Mr. Beck,  
22 do you have any concluding comments?

23                   **MR. BECK:** No, sir.

24                   **COMMISSIONER DEASON:** Let me take this  
25 opportunity to thank you for coming out and being with

1 us today. As I indicated earlier, we've had a number  
2 of these hearings. I think there are two more yet to  
3 come.

4 We're going to take all of this information.  
5 Staff is going to refine what they've already done.  
6 Staff will be coming forward with a rule proposal to  
7 the Commission. We will review that rule proposal.  
8 We may make changes to it, and we will issue that as a  
9 formal rule proposal which then will initiate formal  
10 rulemaking, and there are procedures in place that we  
11 follow.

12 Hopefully, if everything goes according to  
13 schedule, we will conclude our investigation, conclude  
14 our rule proposal process and rule hearing, and we'll  
15 have a formal rule in place -- I think that we should  
16 do that by the end of the year, Commissioner Clark?

17 **COMMISSIONER CLARK:** Sounds right.

18 **COMMISSIONER DEASON:** Okay. If you have any  
19 questions, please call us at the 800 number and we'll  
20 be glad to give you any information that we have.  
21 Thank you for being with us today. This workshop is  
22 now concluded.

23 (Thereupon, the workshop concluded  
24 at 1:10 p.m.)

25

- - - - -

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

3 I, H. RUTHE POTAMI, CSR, RPR, FPSC  
4 Commission Reporter,

5 DO HEREBY CERTIFY that the above undocketed  
6 cramming workshop was heard by the Florida Public  
7 Service Commission at the time and place herein  
8 stated; it is further

9 CERTIFIED that I stenographically reported  
10 the said proceedings; that the same has been  
11 transcribed by me; and that this transcript,  
12 consisting of 43 pages, constitutes a true  
13 transcription of my notes of said proceedings.

14 DATED this 10th day of March, 1999.

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H. RUTHE POTAMI, CSR, RPR  
Official Commission Reporter  
(904) 413-6734

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\$1,700 21/16 \$1,800 16/12, 21/16 \$259.32 16/19 \$3.65 38/23 \$35 19/15 \$374.81 17/15 \$400 17/21 \$533 20/2 \$73 18/19 \$90 17/22 \$900 16/4	A-D-A 11/16 A-L-D-E-S 11/17 ability 37/16, 38/12 absorb 21/17, 21/18 abuses 32/18 abusing 25/12 access 8/6, 29/24, 31/12, 32/14 accounts 9/8 accurate 10/23 act 25/1 action 28/23 activity 26/1 ADA 3/4, 11/2, 11/4, 11/8, 11/16 add 33/2 adding 17/21 address 8/17, 10/21, 27/7, 30/9, 31/9, 35/21 Administrative 4/6 adopt 6/22, 33/12 adopted 6/14 advantage 35/13 advent 38/2 advertising 9/16 affiliation 39/10 Africa 16/13 agencies 29/11 allow 38/11 allows 8/25 alternative 37/18, 40/22 amendment 1/5 amendments 4/8 American 16/19, 18/15, 19/5, 34/8 Ameritech 38/24 amount 26/1, 36/17, 37/8 amounts 16/3, 19/5, 21/11, 22/8 announcement 38/8 answer 9/23 <b>APPEARANCES</b> 2/1, 4/11 applied 39/24 apply 41/19 applying 41/18 appreciate 14/18, 36/24 appropriate 9/7, 22/14, 28/22 approved 42/10 area 5/21, 32/20, 33/9, 35/4, 35/8 areas 34/1, 34/25, 39/24, 40/3, 40/5, 40/6 arrangement 31/25 articles 18/4 assist 5/24, 23/17, 26/6 associated 29/25, 37/19, 40/16 assure 9/5 AT&T 15/23, 17/10, 18/19, 21/17, 23/15, 27/18 Attorney 18/1 audience 19/24, 20/4, 20/10, 38/16 auditorium 5/3, 5/12, 5/16 authorized 37/2, 37/3 auto 36/7 automate 34/18 AutoNation 36/6 available 5/17, 29/20 Avenue 1/20 average 19/15	blocks 9/8, 20/24, 29/20 Boulevard 2/8 box 18/24, 24/12, 24/13, 24/14, 24/15, 25/5, 25/7 brief 8/16 bringing 36/25 brochure 38/7 brochures 17/24 bulletin 5/2, 5/4 bureaus 22/7 business 13/25, 29/2, 29/3, 29/4, 29/5, 29/7, 29/9, 29/10, 29/14, 29/21, 41/22, 41/24 businesses 31/6
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