

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION BY VERIZON FLORIDA, INC.  
TO REFORM INTRASTATE NETWORK ACCESS  
AND BASIC LOCAL TELECOMMUNICATIONS  
RATES IN ACCORDANCE WITH SECTION  
364.164, FLORIDA STATUTES.

DOCKET NO. 030867-TL

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PETITION BY SPRINT-FLORIDA,  
INCORPORATED TO REDUCE INTRASTATE  
SWITCHED NETWORK ACCESS RATES TO  
INTERSTATE PARITY IN REVENUE-NEUTRAL  
MANNER PURSUANT TO SECTION  
364.164 (1), FLORIDA STATUTES.

DOCKET NO. 030868-TL

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PETITION FOR IMPLEMENTATION OF  
SECTION 364.164, FLORIDA STATUTES, BY  
REBALANCING RATES IN A REVENUE-NEUTRAL  
MANNER THROUGH DECREASES IN  
INTRASTATE SWITCHED ACCESS  
CHARGES WITH OFFSETTING RATE  
ADJUSTMENTS FOR BASIC SERVICES, BY  
BELLSOUTH TELECOMMUNICATIONS, INC.

DOCKET NO. 030869-TL

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PROCEEDINGS:                   AGENDA CONFERENCE  
ITEM NO. 5\*\*

BEFORE:                       CHAIRMAN LILA A. JABER  
                                  COMMISSIONER J. TERRY DEASON  
                                  COMMISSIONER BRAULIO L. BAEZ  
                                  COMMISSIONER RUDOLPH "RUDY" BRADLEY  
                                  COMMISSIONER CHARLES M. DAVIDSON

DATE:                           September 16, 2003



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TIME: Commenced at 9:50 a.m.  
Concluded at 10:40 a.m.

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

REPORTED BY: JANE FAUROT, RPR  
Chief, Office of Hearing Reporter  
FPSC Division of Commission Clerk  
Administrative Services  
(850) 413-6732

1 PARTICIPATING:

2 SENATOR JIM SEBESTA, representing the 16th District of  
3 Florida.

4 JOHN FONS, ESQUIRE, representing Sprint-Florida, Inc.

5 CHARLES BECK, ESQUIRE, representing the Office of  
6 Public Counsel

7 RICHARD CHAPKIS, ESQUIRE, representing Verizon  
8 Florida Inc.

9 NANCY WHITE, ESQUIRE, representing BellSouth  
10 Telecommunications, Inc.

11 BETH KEATING, ESQUIRE, representing the Commission  
12 Staff.

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

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2 CHAIRMAN JABER: Item 5. We have people here to  
3 participate, but we will start with staff's introduction.

4 MS. KEATING: Commissioners, Item 5 is staff's  
5 recommendation in the three rate rebalancing dockets addressing  
6 OPC's motions to hold expedited public hearings.

7 Staff is recommending that the motions be granted in  
8 part and denied in part as more fully set forth in staff's  
9 analysis.

10 There are a number of participants here to speak on  
11 this item, and staff is available to answer any questions that  
12 you may have.

13 CHAIRMAN JABER: Thank you, Ms. Keating.

14 Commissioner Bradley, before we get started with  
15 presentations, you wanted to be recognized.

16 COMMISSIONER BRADLEY: Yes. Thank you, Madam Chair.  
17 First of all, I would like to recognize an esteemed guest who  
18 is here among us this morning, Senator Jim Sebesta from Central  
19 Florida, Tampa Bay, St. Petersburg in particular. Senator  
20 Sebesta, welcome.

21 Also, prior to -- and I hope that this is the proper  
22 order -- prior to us discussing Item 5, that is the  
23 implementation of Section 5, what I would like to do is to give  
24 Senator Sebesta a few moments to address the Commission as it  
25 relates to this important issue that we have before us. Also,

1 I would like to note that being a former member of the  
2 Legislature, you know, I am well aware of the prevailing and  
3 the nonprevailing sides as it relates to an issue.

4 And I think we have heard from the nonprevailing  
5 side, and Senator Sebesta was on the prevailing side of the  
6 issue, and I think that he can offer some clear and concise  
7 advice to this body as we address this very tough issue.

8 Senator Sebesta.

9 SENATOR SEBESTA: Thank you, Commissioner, Madam  
10 Chair. I think the best advice I can give to you is start  
11 praying.

12 CHAIRMAN JABER: We haven't stopped.

13 SENATOR SEBESTA: It is very nice to be with you here  
14 this morning. Thank you for the opportunity of saying a few  
15 words, and I will be brief.

16 The reason I supported the bill this last year, and I  
17 think the reason the Governor supported it this year -- last  
18 year I voted against it, and the Governor vetoed it, as you  
19 know. This year I was lead to believe that the bill was going  
20 to be exactly the same as last year, and would I support it,  
21 and the answer was no. But the bill was much different this  
22 year than it was last year.

23 The main thing about the bill, from my perspective,  
24 and I think from my fellow legislators, is that we have taken  
25 the rate setting business out of our hands, which is the

1 smartest thing we have ever done in our lives, and put it right  
2 back to where it belongs, and that is in your hands.

3           You are, in fact, the Public Service Commission, and  
4 that is why you are there. You have the staff, you have the  
5 expertise, you have the experience, the knowledge, and that is  
6 exactly where this should be.

7           From our perspective, I guess it is as simple as  
8 this: If this matter is given a complete, thorough, and  
9 objective hearing, which I'm sure you will do -- and, Madam  
10 Chair, you and I have had some correspondence on this  
11 subject -- if you do that, and if you are able to ascertain  
12 that there is what I will call a substantive benefit to the  
13 ratepayer, then let the chips fall.

14           So give it a fair and complete hearing, and analyze  
15 whatever benefit to the ratepayers there is, then I will be  
16 very happy with whatever decision you reach. And I think that  
17 will be the consensus of the Legislature and the Governor's  
18 Office, as well. So with that I will just wish you well, and  
19 Godspeed.

20           CHAIRMAN JABER: Senator Sebesta, let me take an  
21 opportunity to thank you for your ongoing support. I  
22 appreciate your presence here, and I have appreciated your hard  
23 work at the Legislature. I think you and others, regardless of  
24 what side you are on, send a very strong signal that it is all  
25 about doing our job, and I appreciate you being here.

1 SENATOR SEBESTA: You're more than welcome.

2 CHAIRMAN JABER: We are going to start,  
3 Commissioners, with -- I think it would be appropriate to start  
4 here on my left, Ms. White, and we will move down and let all  
5 the folks make presentations.

6 MS. WHITE: Thank you, Chairman. I will be very  
7 brief. Nancy White for BellSouth. We would support the staff  
8 recommendation. We think staff's recommendation is a fair and  
9 balanced way to proceed with public hearings, and we would  
10 support it. Thank you.

11 CHAIRMAN JABER: Mr. Fons.

12 MR. FONTS: John Fons for Sprint-Florida.  
13 Sprint-Florida also supports staff's recommendation as a  
14 balanced approach.

15 MR. CHAPKIS: Richard Chapkis for Verizon. Verizon  
16 also supports the staff's recommendation as a balanced  
17 approach.

18 CHAIRMAN JABER: Mr. Beck.

19 MR. BECK: Charlie Beck, Office of the Public  
20 Counsel. Commissioners, we are gratified that the staff has  
21 provided advice to you to hold public hearings. We do differ  
22 in just a few respects. We think there should be more public  
23 hearings to make it more convenient and easier for the public  
24 to attend. And we have set forth in our motions those areas  
25 where we think you should have public hearings.

1           The other item is the advertising for it. And we  
2 think it would be better if the companies would advertise not  
3 only a week before the hearings, but also on the day of the  
4 hearings, so that people will have notice on the day that the  
5 hearings are going to take place. Other than that, we are  
6 supportive of the staff's recommendation. Thank you.

7           CHAIRMAN JABER: Mr. Beck, let me just give you some  
8 information that is not in the recommendation, but it also  
9 addresses a request you made the last time we were gathered  
10 here. You asked for at least one Commissioner to attend the  
11 service hearing. I'm pleased to announce that for the first  
12 three we have three commissioners going.

13           MR. BECK: Great.

14           CHAIRMAN JABER: And for the next two -- actually the  
15 next three, we have two commissioners going. And, of course,  
16 for the one in Tallahassee, it will be a full Commission  
17 service hearing.

18           I say that to you because it is important enough to  
19 have more than one commissioner. It was never about that. It  
20 was about managing the Commission's workload with all the  
21 responsibilities this agency has as it relates to all of the  
22 industries. And you know that. I'm preaching to the choir.  
23 You know that our responsibilities are wide and vast, and we  
24 are going to do what we need to do to serve the public.

25           Saying all of that, with regard to your concern about



1 notice, the other thing we have done is our own Commission  
2 staff will issue press releases very, very close to the service  
3 hearing, and we will do everything in our power to make sure  
4 customers are aware of the service hearings.

5 MR. BECK: Commissioner, I'm supportive of that. I'm  
6 glad the commissioners -- so many commissioners will be able to  
7 attend. It has never been an issue that all the commissioners  
8 have had to attend, and I have never argued that. With regard  
9 to the press release, I think that is an excellent idea.

10 CHAIRMAN JABER: Okay. Mr. Twomey.

11 MR. TWOMEY: Madam Chair, Commissioners, Mike Twomey  
12 on behalf of AARP of Florida. Madam Chairman, AARP has filed  
13 notice of, or petitioned requesting intervention in the three  
14 dockets. As you are aware, AARP has approximately 2.6 million  
15 members in the State of Florida. We, too, appreciate the  
16 staff's recommendation insofar as it goes.

17 And, just briefly, I want to address the question of  
18 whether you should have hearings, because I'm not sure that is  
19 necessarily resolved or decided yet. And the answer, of  
20 course, is yes. I think Senator Sebesta would probably tell  
21 you that the Legislature expected that the public would have  
22 input to this process as to whether or not they think they are  
23 going to receive benefits from the rate increase as requested.  
24 So, AARP would say to you, yes, please, let's have public  
25 hearings in these matters.

1           The rate increases being sought are well in excess of  
2 \$350 million a year. The residential customers alone for the  
3 three companies, as I count them, exceed 7.3 million. There  
4 are a lot of people around the state. And that leads me into  
5 the next point, which is to say, how many hearings should you  
6 have. And I would urge you, AARP would urge you to have as  
7 many hearings as you possibly can given the tight time  
8 constraints of the 90-day period for making your decision.

9           I have a map over to the side. I'm sorry I don't  
10 have small copies, but if you can see the different colors, the  
11 blue, I think, are the staff recommended hearing sites and the  
12 red are those requested by the Office of Public Counsel. They  
13 overlap. Public Counsel has requested some sites that your  
14 staff is recommending to you, as well.

15           The circles describe a 30-mile radius. Let me stop  
16 my clock at two minutes, which I have done for another purpose.  
17 Thirty miles. AARP doesn't feel that any customer should have  
18 to drive more than 30 miles, if that far, in order to have an  
19 opportunity to attend your hearings. So you can see how much  
20 of the state is left out, even with all the hearings requested  
21 by Public Counsel.

22           So I know you have a short amount of time, you have a  
23 busy calendar. But, Madam Chair, I would encourage you to make  
24 every effort to have at least one commissioner at each hearing,  
25 which I think you are going to do, and to do your best to try

1 and meet the Public Counsel's request that you have hearings  
2 throughout the state in fourteen locations, which the AARP  
3 fully supports.

4           A couple of other issues that your staff has in its  
5 recommendation, which I would like to address. In terms of the  
6 procedure at the public hearings, AARP has no problem with --  
7 and, in fact, welcomes an opening statement by the presiding  
8 officer to set the tone. We also have no problem with a  
9 summary presentation by the staff. And, of course, statements  
10 by the parties, but your staff suggests brief statements by the  
11 parties. And I started my stop watch when I commenced my  
12 remarks, and I noted some place in there about two minutes and  
13 five seconds. Your staff is recommending that the parties to  
14 this case be allowed only two minutes to inform their clients,  
15 if they are in attendance, about what this case is about in  
16 their view. And, Madam Chair, that is not adequate at all.

17           If we are going to have these hearings, we need to  
18 have an opportunity to make our case. First, the telephone  
19 companies should be required to get up there and make their  
20 case, not have the staff do it. Staff doesn't take positions  
21 in these cases, traditionally. Quite often they don't testify.  
22 The companies should be required to get up, and they should  
23 welcome the opportunity to get up and tell those in attendance,  
24 who will presumably mostly be customers, why they think you  
25 should approve the rate increases of the magnitude being

1 sought, and why those increases will be in their interest.

2 CHAIRMAN JABER: You know, Mr. Twomey, I understand  
3 your point. I always err on the side of limiting the attorneys  
4 in service hearings as opposed to the customers. Public  
5 hearings are, in my humble opinion, for the purpose of  
6 listening to the consumers. And your opportunity to make your  
7 case is in the technical side of the hearing, which we will  
8 have November 4th, 5th, and possibly the 6th, whatever the  
9 dates are. You know the dates. I think if you can't make your  
10 comments known to the customers within two minutes, then you  
11 are not doing -- collectively, not you personally -- you are  
12 not doing your job.

13 MR. TWOMEY: Well, Madam Chair, respectfully I reject  
14 that out of hand. The purpose of these hearings should be for  
15 the customers, many of whom are going to be members of my  
16 client, to know not just what your staff says this case is  
17 about, and not just what the companies say in two minutes --  
18 are they going to have two minutes apiece, a total of six? But  
19 to hear, to have an opportunity to hear from their  
20 representative, which will include the Public Counsel for all  
21 customers statewide, and for the many members of AARP who we  
22 hope will attend, to hear what we have to say about what the  
23 case is and why it is wrong.

24 Now, if we are going to travel that distance, you  
25 have been generous with time and arguments before this

1 Commission at agenda conferences and so forth, oral arguments.  
2 There is no reason, Madam Chair, I respectfully suggest to you  
3 to limit myself, the Public Counsel to two minutes. You can't  
4 get your name out and say your address in two minutes. So we  
5 are not going to be rushed for time where you have to constrain  
6 the parties --

7 CHAIRMAN JABER: What is a time you believe is  
8 reasonable, Mr. Twomey?

9 MR. TWOMEY: Pardon me?

10 CHAIRMAN JABER: How much time do you --

11 MR. TWOMEY: A minimum of ten.

12 CHAIRMAN JABER: Ten minutes per attorney?

13 MR. TWOMEY: Yes, if they want it. If the companies  
14 can do their part in two minutes, that's fine. The other  
15 request I have --

16 COMMISSIONER DAVIDSON: Madam Chair, I would like to  
17 jump in here and let you know I sympathize with the advocates,  
18 Mr. Twomey's dilemma of needing to put on his case, but I also  
19 understand and agree with your concern. This is a customer  
20 hearings and it is for hearing about the customers. It's  
21 not -- I view it -- it shouldn't be an opportunity for trying  
22 to argue your case at a public hearing. Yes, the customers  
23 need to be -- to have positions explained, but there is also an  
24 opportunity for the parties to do that.

25 I would say individually, Mr. Twomey represents AARP,

1 and he is going to have a lot of opportunity in the public  
2 hearings, at the hearings at this Commission, and outside of  
3 those tribunals to explain positions. So I just wanted the  
4 chair to know that I will defer to whatever you think is best  
5 in terms of scheduling these hearings.

6 CHAIRMAN JABER: I appreciate that, Commissioner.

7 MR. TWOMEY: And let me say, Madam Chair, if I may,  
8 in response to Commissioner Davidson. I have been doing this  
9 for over 20 years, commission hearings. I have done a lot of  
10 commission hearings as staff, I have done many hearings as an  
11 advocate for parties. Commissioner Deason is aware of this  
12 probably more than anybody. The Commission has never been  
13 stingy with its time for letting the advocates make their case  
14 about what the case is for their customers, their clients. And  
15 this is especially important for those representing consumers.  
16 Every electric case, you go back and look at the transcripts,  
17 telephone rate increases when we had them.

18 CHAIRMAN JABER: And you also know me well enough to  
19 know that we will not be stingy going forward. My point, Mr.  
20 Twomey, is it is the customers' day. And you have been in  
21 those same service hearings that I have been in when it is the  
22 customers themselves that get frustrated with the attorneys  
23 because the attorney is taking too long. There is a middle  
24 ground, I hope to find it.

25 MR. TWOMEY: Okay. And lastly on this point and I

1 will stop.

2 CHAIRMAN JABER: Go ahead.

3 MR. TWOMEY: If it were a question of the Public  
4 Counsel and myself, and any other consumer representative, if  
5 there will be any, taking time away from the customers'  
6 testimony, then I would agree with you. I don't think that  
7 will be the case. I wanted to ask your consideration of  
8 letting the Public Counsel, or at least AARP, see the draft of  
9 the notice to go out to the press so we could have an idea of  
10 what is being said in terms of how that will affect the  
11 likelihood of consumers to appear.

12 CHAIRMAN JABER: When did you file your notice of  
13 intervention?

14 MR. TWOMEY: It was last Tuesday, I believe. Tuesday  
15 or Wednesday.

16 CHAIRMAN JABER: So, what, the time for response  
17 hasn't passed yet, is that why there is no order?

18 MS. KEATING: Not yet. It would run on Wednesday, I  
19 believe. It was actually filed last Wednesday.

20 CHAIRMAN JABER: I want that dealt with quickly. And  
21 I don't know if that means you bring an order to the prehearing  
22 officer or what, but we need to act on that.

23 MS. KEATING: Absolutely, Madam Chairman. It is  
24 actually drafted already.

25 CHAIRMAN JABER: Great.

1 MR. TWOMEY: I don't think any of the companies  
2 intended to oppose it, but --

3 CHAIRMAN JABER: Good. Then the order will come out  
4 quickly.

5 MR. TWOMEY: Thank you, Madam Chair.

6 CHAIRMAN JABER: Anyone here to address the  
7 Commission? Anyone else?

8 Commissioners, do you have questions or comments?

9 COMMISSIONER DAVIDSON: I have got a comment,  
10 Chairman.

11 CHAIRMAN JABER: Commissioner Davidson.

12 COMMISSIONER DAVIDSON: And it is really a  
13 commendation of staff, and I will preface that with ultimately  
14 I will defer to the chair to set whatever number of hearings  
15 you deem appropriate, and at the locations. But I did want to  
16 commend staff. Because I know OPC has requested fourteen  
17 hearings. Staff has, I think, struck a reasonable balance.

18 We have right now 517 total cases open, 471 of those  
19 are in active status and those cases are divided amongst us as  
20 prehearing officers. I don't know about the rest of you, but  
21 we really are juggling a lot of cases, a lot of significant  
22 cases.

23 The triennial review order has just been released.  
24 We have got two separate major dockets on that. We have a  
25 number of energy dockets, a number of water dockets. And I



1 just wanted to commend staff. I think they have struck a  
2 reasonable balance as to the number of hearings and the  
3 location of those hearings. And, again, ultimately my  
4 intention is to defer to the chair in setting that.

5           One additional comment. I don't know that we need to  
6 lay out at this point specifically the procedure to be held in  
7 each proceeding. I would like to seek the guidance of staff's  
8 expertise in that case, and leave it to staff and your office  
9 to work out what would seem to be a good schedule for all of  
10 those hearings. And I just don't know -- as we are thinking on  
11 the cuff, mapping out the schedule for each day, is necessary  
12 or advisable at this point.

13           CHAIRMAN JABER: That is an excellent question. We  
14 did have to go ahead and schedule certain days to meet the FAW  
15 notice, Commissioner Davidson. So in the abundance of caution,  
16 the seven that are included in staff's recommendation have been  
17 scheduled for a date certain because of the FAW notice, which  
18 is something to think about. If the Commission is inclined to  
19 try to have more public hearings, I've got to talk to staff  
20 about the FAW notice.

21           But, certainly with regard to all of your comments, I  
22 appreciate it. I think staff has done a great job, as well.  
23 This is a balance, one that was hard to strike considering the  
24 time constraints. But this agency can do it, Commissioners.  
25 We have done it in the past, and I think we can do it in the

1 future. I support staff's recommendation. I do have a couple  
2 of questions about locations, but I would like to hear your  
3 feedback, as well.

4 COMMISSIONER DEASON: I just have a couple of  
5 clarifying questions.

6 CHAIRMAN JABER: Commissioner Deason.

7 COMMISSIONER DEASON: Well, actually, one clarifying  
8 question for Mr. Twomey. At the end of your presentation you  
9 mentioned something about the draft notice. I didn't catch  
10 your point.

11 MR. TWOMEY: Yes, sir. The point being is that I  
12 believe your staff has recommended to you that they prepared  
13 Page 8 of your recommendation, of their recommendation,  
14 Commission staff customer report. Staff should provide a  
15 customer report which should include pertinent background  
16 information as well as clear guidance regarding the information  
17 the Commission is seeking from customers through these  
18 hearings. And my request of you, of the chair, and you all is  
19 that AARP, at least, be allowed to see the draft and make  
20 comments on it. No veto power obviously.

21 But there are differing views, obviously, in this  
22 proceeding about what this Commission is supposed to be looking  
23 for. Whether residential benefits, as I think I heard the  
24 senator say, are to be found, or merely whether competition is  
25 to be enhanced, whether it actually results or not. So those

1 points are tender, I think, and I just ask to see the draft and  
2 have an opportunity to comment to the staff.

3           COMMISSIONER DEASON: Well, let me -- and I  
4 understand your desire there, and I respect that. I think you  
5 understand that those notices are put together with the idea of  
6 giving essential background information to customers, give them  
7 an idea of the Commission, what we do, the procedure we follow  
8 at a customer meeting, and then some of the essential  
9 background information that pertains to the particular docket  
10 in question that the hearing is addressing. And I think staff  
11 does a very good job in providing that information, and it is  
12 really not an opportunity for staff to advocate one position or  
13 another, it is an opportunity basically to give -- to describe  
14 the issues and what customers should be concerned about and  
15 help educate customers and let them formulate their own  
16 position.

17           It may be a platform for customers to ask additional  
18 questions, and often times it functions in that manner. I  
19 think it is very successful. You know, if you understand that  
20 is the purpose behind it, and it is not an avenue for any  
21 party, consumer advocates, or companies, or staff, if they have  
22 a position, which I don't think they have formulated a position  
23 yet, it is not a platform for any party to try to advocate a  
24 position in the name of educating customers.

25           MR. TWOMEY: Yes, sir. And I understand that fully.

1 I do. And I didn't take that comment in my request. I don't  
2 want you to take it as a --

3 COMMISSIONER DEASON: And I didn't think that was  
4 your intent.

5 MR. TWOMEY: It is not a criticism at all of your  
6 staff. My concern is that through some inadvertence there  
7 might be -- I don't care about the companies. I'm not worried  
8 about the companies advocating a position. I am concerned  
9 about there being a limitation on what consumers can testify to  
10 at the hearing, that's it in a nutshell.

11 CHAIRMAN JABER: Commissioners, any other questions?  
12 Commissioner Bradley.

13 COMMISSIONER BRADLEY: Your voice trailed off as you  
14 were making your final statement. What did you say? Could you  
15 repeat that, please?

16 MR. TWOMEY: I'm sorry, are you talking to me?

17 COMMISSIONER BRADLEY: Yes. Your voice trailed off.  
18 I didn't hear what the last part of your statement was.

19 MR. TWOMEY: I said, as I recall, that I didn't  
20 intend any criticism of the staff by my request of the  
21 Chairman. I don't mean any. I'm not concerned about the  
22 companies advocating their position in the staff's report.  
23 What I was concerned with, Commissioner Bradley, is any  
24 limitation that might get in there through inadvertence on your  
25 staff's part that would limit the ability of the customers to

1 testify as to any matter they wish to.

2 COMMISSIONER BRADLEY: Can you give me an example.

3 MR. TWOMEY: Yes, sir. I don't want any  
4 suggestion -- I don't want any suggestion from any quarter that  
5 consumers will drive some distance to testify at these hearings  
6 that they can't say that they can't afford the rate increase  
7 that is being requested; if they don't like the rate increases  
8 that is being requested, even if they can afford it; that they  
9 don't see that they will receive benefits because they don't  
10 make enough in-state telephone calls, if any, to warrant them  
11 having an opportunity to have a break-even total bill or even  
12 come out ahead of the game, that kind of thing.

13 CHAIRMAN JABER: Mr. Beck, let me put you on the  
14 spot. I agree with Mr. Twomey, two minutes per party may not  
15 be completely sufficient. But ten minutes starts to take away  
16 from the opportunity to listen to all the customers that may be  
17 at a given public hearing. So let me ask you, what would be --  
18 given that statement, what do you need?

19 MR. BECK: Commissioners, I don't intend to take long  
20 at all. I agree completely that the point of the hearings is  
21 to hear from the customers. And I know in the rate cases we  
22 have had there have been instances where we have gone hours and  
23 hours. And, you know, I agree with the idea of let's get the  
24 customers testifying just as quickly as we can.

25 For me, personally, I think two to three minutes

1 would be fine. I think if you gave ten minutes to every party,  
2 that would be the companies, and our office, and the AARP, you  
3 are into a half hour, and to me that is -- I don't want  
4 customers to have to wait a half hour to testify, either.

5 CHAIRMAN JABER: And you have been in those same  
6 hearings where the customer gets frustrated by how long the  
7 attorneys take.

8 MR. BECK: I think short statements are appropriate.  
9 I can handle two minutes. It will be all right with me.

10 CHAIRMAN JABER: Ms. White? Mr. Fons? Mr. Chapkis?  
11 I'm sorry, Senator Sebesta, I didn't see the  
12 microphone go on.

13 SENATOR SEBESTA: Thank you, Madam Chair. I have no  
14 idea if this would be appropriate, but why don't you put the  
15 customers on first and then let the other folks speak at the  
16 end.

17 CHAIRMAN JABER: It's not inappropriate, Senator  
18 Sebesta. What the parties like to do is set up the case to try  
19 to keep the customer focused on what -- as we do in our opening  
20 statements, as presiding officers we try to tell them what the  
21 purpose of the meeting is and what kinds of comments we need to  
22 hear to help us do our job. That is what Mr. Twomey is talking  
23 about. And usually it is preferable. I certainly prefer it,  
24 as a presiding officer, to get the attorneys up there to say  
25 what they need to say quickly to try to focus the comments, but

1 then listen to the customers immediately.

2 COMMISSIONER DEASON: Madam Chairman, may I make a  
3 suggestion?

4 CHAIRMAN JABER: Commissioner Deason. And then I  
5 want to ask for the industry to put on how they are going to  
6 combine their statements.

7 COMMISSIONER DEASON: Very well. Just a suggestion  
8 maybe for your consideration and other Commissioners'  
9 consideration. Perhaps instead of a very strict time limit  
10 stated up front, we just leave it to the discretion of the  
11 presiding officer. You probably will be presiding at most of  
12 the hearings, I think there may be one or two that I may be  
13 presiding, maybe other Commissioners will be presiding at  
14 others. They can get a feel for how many people are in  
15 attendance, if there are questions from customers needing  
16 general background information, opening statements may help.  
17 Other hearings it may that be the customers are determined they  
18 want to get -- and the presiding officer can get a feel for  
19 that, and he or she can instruct parties in their opening  
20 statements, give them a guideline. And if need be, just look  
21 at their watch and cut them off. I mean, that would be a last  
22 resort, but those types of things happen at hearings and that  
23 may be the best way to handle it.

24 CHAIRMAN JABER: You're absolutely right. You know,  
25 I was more concerned, Mr. Twomey, with requesting the companies

1 to combine their statements. You brought up something in  
2 passing about three different companies taking three minutes  
3 each. That is more of a concern to me. And my request of Ms.  
4 White, Mr. Fons, and Mr. Chapkis is some of these hearings are  
5 designed to cover territory for two companies. I've got two.  
6 I don't know if there are any of these locations that will  
7 cover three, but assuming it is more than one, it is reasonable  
8 to assume that you will select a spokesman to do one  
9 presentation unless there are differences which you would be  
10 able to share that with staff and the parties early on. If  
11 there are real differences that must be brought out in a  
12 presentation, I would understand it.

13 But one of the ways to quickly get the customers up  
14 and testifying is to try to consolidate your presentations.  
15 And I tend to agree with Commissioner Deason. I have been  
16 flexible in not setting time periods for hearings in the past  
17 with the understanding that we are all professionals and we  
18 will all govern ourselves accordingly. I know, Mr. Twomey, I  
19 don't want it to be ten minutes. Let me let the companies  
20 respond. I will come back to you.

21 Ms. White.

22 MS. WHITE: I agree absolutely with your comment  
23 that, you know, the purpose of the public hearings is to listen  
24 to the public, not to listen to us, the lawyers for any of the  
25 parties in this case. So I think a very, very short time



1 period to make a presentation, if one is needed at all, is  
2 acceptable. I think that to the extent we can consolidate, if  
3 we are in the same area and we can consolidate, we would be  
4 happy to do that. There are differences in the cases filed by  
5 the companies, however. So to some extent there may have to  
6 be -- the whole thing may not be able to be consolidated, but I  
7 think to the extent we can, we would certainly work on that.

8 CHAIRMAN JABER: Mr. Fons.

9 MR. FONTS: Chairman, we would agree there are  
10 difference between the companies. There is the opportunity,  
11 for example, in the Orlando area where there will be both  
12 Sprint-Florida customers and BellSouth customers and maybe even  
13 some Verizon customers because of the way the notices will be  
14 going out, but it is important that the consumers are not  
15 confused as to whose meeting this is. If only BellSouth speaks  
16 at the Orlando meeting, the consumers may not understand why  
17 they are there.

18 So it may be important that each one of the companies  
19 in some situations be given an opportunity to identify the  
20 company and its positions, if necessary. But two to three  
21 minutes. If you are talking ten minutes in that situation, you  
22 could wind up with the attorneys for the companies taking up 30  
23 minutes, and that is just not acceptable. So we can certainly  
24 do it in two to three minutes, whatever the situation is  
25 presented.

1 MR. CHAPKIS: Verizon concurs with the previous ILEC  
2 statements. We think that this is really a day for the  
3 customers, not for the attorneys. We will try to keep our  
4 comments brief. Because there are differences, we may want to  
5 step in and make an independent comment in certain instances.  
6 We may be amenable to a consolidation in others, but two  
7 minutes will be fine for Verizon.

8 MR. FONS: If I may, Madam Chairman, one other  
9 observation. If the companies are required to consolidate  
10 their comments, we would suggest that Public Counsel and Mr.  
11 Twomey consolidate their comments. If they are both  
12 representing the consumers, as they claim to be, then there is  
13 no need for them to have individual and we restricted to just a  
14 consolidated statement.

15 COMMISSIONER DAVIDSON: I would like to comment on  
16 that. I'm not comfortable with that proposal. Office of  
17 Public Counsel is a legislative body. It is a public body. It  
18 has an independent fiduciary, of sort, interest to consumers.  
19 Mr. Twomey, with all due respect, also represents consumers,  
20 but from the standpoint of a private litigant. And I think Mr.  
21 Twomey and Mr. Beck, or whoever is there on behalf of Public  
22 Counsel, and AARP have a right to present separate statements  
23 according to whatever time line is set out.

24 CHAIRMAN JABER: Okay. Commissioners, assuming the  
25 vote is to grant the request for public hearings, my preference

1 is to establish a three-minute time period for presentations  
2 with the understanding that if there are circumstances which  
3 warrant additional time, Mr. Twomey and others, you would bring  
4 it to the attention of the presiding officer. But, know this,  
5 the intent is to get the customers up and testifying.

6 MR. TWOMEY: I will strive for that. I would urge  
7 the Chair, to consider, as well, though, that while we  
8 recognize the importance of the customers having the  
9 opportunity to testify, there should be an educational aspect  
10 to this exercise; that is, in terms of educating the customers  
11 what is before them. Why their rates are being requested --  
12 put to them by the companies, and why the rates shouldn't be  
13 raised in the view of Public Counsel, if that is the position  
14 they are going to take, which it is, I think, and the AARP.  
15 That's all.

16 CHAIRMAN JABER: Commissioner Baez.

17 COMMISSIONER BAEZ: Mr. Twomey, is there any  
18 limitation on what kind of information you can disseminate to  
19 your client's membership even prior to a public hearing?

20 MR. TWOMEY: You mean could we do all of this  
21 beforehand?

22 COMMISSIONER BAEZ: Well, I'm wondering what kind of  
23 opportunities are available to you to explain your case and to  
24 engage in education outside the very real constraints of the  
25 public hearings that we are proposing to hold.

1 MR. TWOMEY: That is a fair question, Commissioner.  
2 And the answer is, the reality is that the AARP, to my  
3 knowledge, doesn't have the ability, that is the state  
4 organization, and the time constraints of -- the same time  
5 constraints you all have limit all of us. I am not aware that  
6 the AARP has the ability, in a timely fashion, to address all  
7 the Florida members and perform that educational function.

8 CHAIRMAN JABER: Commissioner Bradley.

9 COMMISSIONER BRADLEY: Yes. Did I understand you to  
10 say that the AARP does not have the ability to communicate with  
11 its members in a timely fashion?

12 MR. TWOMEY: To my understanding, Commissioner  
13 Bradley, and it is subject to check, is that the AARP does not  
14 have the timely ability to reach all of its members in the  
15 state prior to these hearings in some written fashion. It is  
16 true there is a bulletin and there is a national AARP magazine.  
17 I don't think they have the ability, with the lead times for  
18 those publications, to reach all of their members.

19 COMMISSIONER BRADLEY: But do you know that to be a  
20 fact or are you just --

21 MR. TWOMEY: No, sir, I just told you it is subject  
22 to check. That is my knowledge. I will check. And if you  
23 want, I will get back to you all.

24 COMMISSIONER BRADLEY: A question. Mr. Twomey made a  
25 request to see what staff is going to put in its informational

1 piece prior to it being finalized. Is that appropriate or  
2 inappropriate?

3 CHAIRMAN JABER: Actually, I think -- and Mr. Twomey  
4 can correct me if I'm wrong -- the request was to review the  
5 proposed notice that is going to be submitted by the companies  
6 to staff, is that right?

7 MR. TWOMEY: That and whatever is addressed in Item 4  
8 on Page 8, that Commission staff customer report.

9 CHAIRMAN JABER: Oh, all right. Commissioner  
10 Bradley, I assume your question goes to both of those?

11 COMMISSIONER BRADLEY: Yes.

12 CHAIRMAN JABER: Ms. Keating, what have we done in  
13 the past? I know the customer report, just prior experience,  
14 is --

15 COMMISSIONER BRADLEY: And I will tell you what I am  
16 getting at. If Mr. Twomey is going to be allowed to edit maybe  
17 or make comments about what staff is going to send out, should  
18 the companies also have that prerogative?

19 MR. McLEAN: Commissioner Bradley, I think the staff  
20 would welcome comments from everyone so long as they are not a  
21 prerequisite to it being issued. In other words, staff will  
22 take help anywhere they can get it. But basically this is the  
23 staff's opportunity on behalf of the Commission to tell these  
24 customers why we are down at those particular places and what  
25 we are going to do.

1           It is the staff's ultimate responsibility through the  
2 Commission to tell the customers what the hearing is all about  
3 and we will accomplish that in the least partisan way  
4 imaginable, I hope. Now, if Mr. Twomey, or the companies, or  
5 anyone else wants to suggest to us some -- and guide our hand a  
6 bit and make suggestions, that is fine so long as the  
7 Commission -- we would not care for the Commission making it a  
8 prerequisite to its issuing because we have time deadlines that  
9 we have to honor.

10           COMMISSIONER BRADLEY: Another question, too. The  
11 last time we met -- and I'm trying to figure out what there is  
12 that -- I mean, what the purpose of the public hearing is or  
13 the meeting is. Is it to inform the customers as to what is  
14 being -- what is before them, or inform the customers as to  
15 what is in the legislation, or is it to provide a forum for  
16 debate between the companies and OPC and the consumer  
17 advocates? You know, I'm just trying to figure out what there  
18 is that --

19           MR. McLEAN: Well, I think, having been a veteran of  
20 these customer hearings --

21           CHAIRMAN JABER: Mr. McLean, excuse me.

22           MR. McLEAN: I'm sorry, go ahead.

23           CHAIRMAN JABER: From my perspective, Commissioner  
24 Bradley, it is the same purpose for every service hearing. It  
25 is to give the customers an opportunity to address the

1 Commissioners on concerns that they have related to the case in  
2 front of us, and that requires -- you bring up a very excellent  
3 point -- that requires that this agency inform the customers of  
4 the purpose of the proceeding and what it is we are  
5 considering. And I think staff has done a real good job  
6 articulating how they intend to make that presentation.

7           It is not my intent, and as presiding officer it will  
8 be my responsibility and it is all of our responsibility to  
9 keep that hearing focused and not turn it into a debate between  
10 the consumer advocates and the companies. So that would be my  
11 intent.

12           COMMISSIONER BRADLEY: I would like for Mr. Twomey  
13 and OPC and the companies to answer that question. I mean, how  
14 do you all -- what is your perception of what these hearings  
15 are, what the purpose is?

16           MR. TWOMEY: I will go first, if I may. My view, my  
17 desire, Commissioner Bradley, and Madam Chair, and other  
18 Commissioners, is that the public to respond in their testimony  
19 properly have to know what is before them. So that's why I  
20 talked about the education part. There has to be an  
21 educational part, whether it is through the staff report, the  
22 presiding officer's presentation, the comments of the parties.  
23 I would hope, at a minimum, in your advertisements, your press  
24 release, and the companies' quarter page ads that somebody  
25 would tell those people that in a given service area we expect

1 to see your -- if we grant the relief sought, we expect to  
2 raise your rates a minimum of 35 percent for BellSouth.

3 COMMISSIONER BRADLEY: Excuse me. But I think that  
4 is presuming -- I mean, assuming that the Commission has taken  
5 a position. I mean, I don't think there is a Commissioner who  
6 is before you here today who has made a decision as to what the  
7 outcome of all of this is going to be.

8 MR. TWOMEY: And, I'm sorry, I didn't mean to suggest  
9 that. If I did, I apologize. I said if the requested relief  
10 is granted, the companies will have their rates increased a  
11 minimum of 35 percent for BellSouth, and as much as 90 percent  
12 for Sprint, and in between for Verizon, depending upon rate  
13 group and geographic location. I would expect, at a minimum,  
14 customers would be told what increases they are expecting on a  
15 monthly basis. And then at the hearing, I would expect the  
16 telephone companies to come in and say, yes, we are going to  
17 raise your rates, it's true, dramatically. But in exchange for  
18 that, you are going to get benefits which the Legislature said  
19 we had to show.

20 COMMISSIONER BRADLEY: Excuse me, Madam Chair, but I  
21 don't think that this panel has reached that conclusion.

22 CHAIRMAN JABER: Well, Commissioner Bradley, you  
23 asked what each party --

24 MR. TWOMEY: What I thought it would be.

25 CHAIRMAN JABER: Excuse me, Mr. Twomey. You asked



1 what each party thought it would be. Mr. Twomey is the first  
2 one. We will go down the line and then we will engage in a  
3 Commission dialogue.

4 COMMISSIONER BRADLEY: Excuse me. Go ahead.

5 MR. TWOMEY: Yes, sir. I'm sorry. So I would expect  
6 the companies, whether it takes them two minutes, or three  
7 minutes, or four, to say we are going to increase your rates  
8 dramatically throughout the state, but we think it is a good  
9 deal for you for the following two, three, or four reasons.  
10 And then Mr. Beck would get up and say what he has to say, and  
11 I would get up, and I know what I'm going to say now largely is  
12 that they shouldn't raise your rates one iota, not one penny,  
13 because they can't prove substantial residential benefits, they  
14 can't prove there will be increased competition, and the things  
15 that we think the Legislature sought to be proven before the  
16 rates would be increased. And then they would testify.

17 CHAIRMAN JABER: Mr. Beck, you have heard  
18 Commissioner Bradley's question. You have heard how I believe  
19 or what I believe the purpose of the service hearings are.  
20 Would you like to answer Commission Bradley's question?

21 MR. BECK: Certainly, Commissioner. The purpose is  
22 to hear from the public how they believe the proposals by the  
23 company will impact them. You know, certainly there is pluses  
24 and minuses associated with it, and to hear from the public how  
25 they feel that it will impact them.

1 CHAIRMAN JABER: Verizon.

2 MR. CHAPKIS: I essentially agree with what Mr. Beck  
3 just stated. I think that the Commission staff customer report  
4 should briefly lay out what the issues in the case are. That  
5 the companies and the consumer representatives should each, you  
6 know, have a brief period of time to educate the public and  
7 then we should hear from the public, which is the primary  
8 purpose of the hearings.

9 CHAIRMAN JABER: Mr. Fons.

10 MR. FONS: I would echo just what Mr. Chapkis has  
11 said. We believe that that is the purpose of the public  
12 hearings.

13 CHAIRMAN JABER: Ms. White.

14 MS. WHITE: Yes. BellSouth also agrees with that.

15 COMMISSIONER BRADLEY: And, Madam Chair --

16 CHAIRMAN JABER: Commissioner Bradley.

17 COMMISSIONER BRADLEY: And I know that staff is --  
18 when it explains what the purpose of the hearing is is going to  
19 be very clear that either position that is being advocated for  
20 may not be what is concluded after all of the discovery and all  
21 the evidence is presented to this Commission that we have to  
22 make a decision, you know. So I wouldn't -- I wouldn't want to  
23 have anyone assume that any of the positions are foregone  
24 conclusions, or are going to be a fact of what this Commission  
25 is going to determine as it renders a decision. That's why I

1 think that it is important that staff play a very prominent  
2 role in explaining what there is that the Commission is there  
3 to do, and what we are seeking from the public. And I would  
4 respectfully request that the parties not get into a debate.  
5 That is not the proper forum. We are there to collect  
6 information impartially and to give consideration to that  
7 information along with other information that we are going to  
8 consider in order to decide what the outcome of all of this  
9 should be. And that is what I am wrestling with and I hope  
10 would happen.

11 CHAIRMAN JABER: Let me try to give you -- let me try  
12 to give you some comfort. I think the two concerns you have  
13 are a description of what I think the role of the presiding  
14 officer is. I think the presiding officer has to keep bringing  
15 the customer, the parties, and ourselves, frankly, to the focus  
16 of the customer hearing, the customer service hearing, and what  
17 the purpose is.

18 And just to remind everyone what the usual script is,  
19 we are here to hear from the customers, and please understand  
20 that your comments and testimony go into the recommendation  
21 that will be considered by the Commission. And we are not  
22 there with a final decision. We usually announce when the  
23 final decision will be made. We explain, I certainly do  
24 explain the purpose of the technical hearing and when the  
25 technical hearing will be.

1           But the other purpose of the presiding officer or the  
2 role of the presiding officer is to keep the parties in check.  
3 And I have a feeling those three companies don't have any doubt  
4 that Commissioner Baez, Commissioner Deason, and myself have no  
5 trouble keeping the parties in check. And, Commissioner  
6 Bradley, I know that you have been at service hearings with us  
7 and you have my commitment to try to maintain order.

8           Commissioner Davidson.

9           COMMISSIONER DAVIDSON: A couple of comments,  
10 Chairman. Thank you. This whole discussion is one reason my  
11 preference would be to do exactly what our general counsel  
12 suggested and leave the drafting of the notice to our staff,  
13 who I am confident will be as nonpartisan as possible.

14           In terms of the scope of the public hearing, I agree  
15 with OPC's assessment. The reality is we may hear from a lot  
16 of consumers on the very issues that were debated by the  
17 Legislature, and it is our job to take that testimony and  
18 listen to them. It is not the job of this Commission to second  
19 guess the intent of the Legislature. Customers may not be  
20 happy with the bill. Some may be happy with the bill, but we  
21 need to listen to all of them and hear their concerns.

22           What I would hope is that the parties not reargue the  
23 merits of the legislation that has already been passed by the  
24 Florida Legislature, but rather that they focus on the  
25 criteria, factors, concerns that are set forth in that

1 legislation. Our job, our central task is not to revisit that  
2 legislation, it is to implement that legislation according to  
3 its terms. And implementing the legislation according to its  
4 terms may result in granting the petitions that were filed, or  
5 not granting the petitions that were filed. And that is the  
6 scope of our inquiry.

7           Now, do customers understand that scope? Perhaps  
8 not. And we need to hear everything they have to say in an  
9 orderly manner. And on that note, I would just like to say  
10 that AARP is fortunate to have Mr. Twomey as their  
11 representative. He is a fine consumer advocate.

12           MR. TWOMEY: Thank you.

13           CHAIRMAN JABER: Okay. Commissioners, is there a  
14 motion or further -- Commissioner Deason, further discussion?

15           COMMISSIONER DEASON: One quick question. In Mr.  
16 Beck's presentation he made a suggestion that there should be a  
17 requirement for day-of-hearing advertising, and I just wanted  
18 to know what the companies' position is on that suggestion.

19           MS. WHITE: The advertising on the day of?

20           COMMISSIONER DEASON: I think that was Mr. Beck's  
21 suggestion.

22           MS. WHITE: Well, I believe that advertising the week  
23 before plus the press releases that the Commission is going to  
24 send out is sufficient. I think if you required an  
25 advertisement a week before and the advertisement the day of, a

1 quarter page ad, which isn't cheap, and I think in BellSouth's  
2 case we have to put it in five or six different city  
3 newspapers, I think the one week before is sufficient in  
4 addition with the press releases that the Commission is going  
5 to do.

6 COMMISSIONER DEASON: Mr. Fons.

7 MR. FONTS: I would agree with the comments that were  
8 made by counsel for BellSouth, Ms. White.

9 COMMISSIONER DEASON: Mr. Chapkis.

10 MR. CHAPKIS: Verizon concurs with her comments, as  
11 well.

12 MS. KEATING: Madam Chairman.

13 CHAIRMAN JABER: Yes, Ms. Keating.

14 MS. KEATING: If I could just make one clarification  
15 for noticing purposes before you take a vote on this. We had  
16 indicated in our staff recommendation we are recommending one  
17 of the hearings be in Punta Gorda. Ms. Moses has, however,  
18 been working on scheduling, and the location that she was  
19 actually able to find in the area is actually in Port  
20 Charlotte. So should you approve staff's recommendation, the  
21 new notice would reflect Port Charlotte as opposed to Punta  
22 Gorda.

23 CHAIRMAN JABER: You bring up a very interesting  
24 point I neglected to mention, Ms. Keating. I talked about the  
25 difficulty in meeting the FAW notice. The other difficulty was

1 making sure we could find locations in these cities, which yet  
2 again, Records and Legal, you guys have done an outstanding job  
3 making sure we could pull this off.

4 MR. TWOMEY: Madam Chair.

5 CHAIRMAN JABER: Mr. Twomey.

6 MR. TWOMEY: May I have one brief comment on the  
7 notice?

8 CHAIRMAN JABER: Last comment, and then I am ready  
9 for a motion.

10 MR. TWOMEY: Yes, ma'am. I don't know if it is in  
11 the staff recommendation, or if it was in something that -- one  
12 of the responses of the companies, but I saw someplace I  
13 recall, I think, a suggestion that newspaper publication notice  
14 should be made just in the city where the hearings are being  
15 held. And I would suggest to you if that was the thought, that  
16 if you are only going to hold a hearing in Fort Lauderdale, for  
17 example, for BellSouth, and the nearest -- that would be the  
18 nearest hearing that Miami consumers could attend, that it  
19 probably should be noticed in the Miami Herald, as well.

20 CHAIRMAN JABER: Mr. Twomey, I had that same  
21 question, but my concerns were alleviated when it was clarified  
22 to me that it is notices of general circulation, and that is  
23 more than just the city where the customer meeting will be  
24 held.

25 MR. TWOMEY: Yes, ma'am.

1 CHAIRMAN JABER: But let me have Legal address that.

2 MS. KEATING: Staff's recommendation is for the  
3 cities that are identified in Section 3, which includes more  
4 cities than are the cities identified for actual hearings.

5 CHAIRMAN JABER: Mr. Twomey, I think that addresses  
6 your concern.

7 MR. TWOMEY: It sounds like it does, yes, ma'am.  
8 Thank you.

9 CHAIRMAN JABER: Thank you. Commissioners, how about  
10 a motion?

11 COMMISSIONER BRADLEY: Madam Chair, before we  
12 entertain a motion --

13 CHAIRMAN JABER: Commissioner Bradley.

14 COMMISSIONER BRADLEY: -- can we kind of review or go  
15 over what there is that we have decided upon?

16 CHAIRMAN JABER: I heard consensus, Commissioner  
17 Bradley, that the motion to have public hearings should be  
18 granted?

19 COMMISSIONER BRADLEY: Right.

20 CHAIRMAN JABER: I heard consensus with regard to the  
21 seven locations selected. I requested that for purposes of  
22 getting organized the parties -- all parties be limited to  
23 three minutes with the understanding that if a situation  
24 presented itself and parties needed more than three minutes  
25 that they just need to let the presiding officer know at the



1 hearing. I heard consensus that the notice proposed -- that  
2 the noticing proposed by staff, the kind of noticing was  
3 acceptable. I heard consensus, certainly I agree with  
4 Commissioner Davidson that because of the time constraints  
5 staff needs to be given the discretion and direction to include  
6 enough educational information, very objective educational  
7 information in the special report and in reviewing the  
8 companies' proposed notice. What have I forgotten,  
9 Commissioners? I think that is it, right?

10 COMMISSIONER BRADLEY: Well, we did somewhat try to  
11 define what the purpose of the hearing is going to be. Is  
12 that --

13 CHAIRMAN JABER: I think that is articulated --  
14 certainly what I was saying is articulated in staff's  
15 recommendation. I didn't introduce anything new. If you look  
16 at -- where is it?

17 COMMISSIONER BRADLEY: Well, I think that, as I  
18 understand it, this is the day for the customer and not for the  
19 companies and for the Office of OPC and Mr. Twomey to debate  
20 the issues, but for us to gather information and to hear from  
21 the customers. And they will debate their various positions  
22 before us here in the chamber.

23 CHAIRMAN JABER: I'm nodding my head in agreement,  
24 and I think that message has been sent time and time again. I  
25 don't know, Commissioners, do we need to do anything more in

1 that regard? Commissioner Davidson.

2           COMMISSIONER DAVIDSON: I have one more question. I  
3 don't want to complicate the matter any more, but would it be  
4 of any benefit to the parties to perhaps include, say, a  
5 one-page type of primer in the materials that might be handed  
6 out at the hearing, which would hopefully, Mr. Twomey, allow  
7 you to make sure -- even though you are not drafting the  
8 notice -- any points you want to be made are made, as well as  
9 OPC and the industry. I just throw that out there as an idea.  
10 Because it may be easy, if the Commission is preparing  
11 materials to distribute, if such materials are prepared in  
12 advance, those could be handed out, as well. Or perhaps you  
13 just want to hand them out yourself at the hearings.

14           CHAIRMAN JABER: Mr. Twomey, hang on one second.  
15 Commissioner Davidson, the only concern I have about that is  
16 creating competing documents or confusion among the documents  
17 that frankly makes it awkward for the presiding officer to try  
18 to address questions from having not prepared those documents.  
19 That is my only caution. But you asked that question of the  
20 parties, and I will certainly let them address it. Mr. Twomey.

21           MR. TWOMEY: Yes, sir, I think that a straightforward  
22 unbiased primer -- or primer, whatever it is -- would be  
23 beneficial. Again --

24           COMMISSIONER DAVIDSON: Well, I suspect it wouldn't  
25 be unbiased. I mean, you would have your views and OPC would

1 have --

2 MR. TWOMEY: No, I'm sorry, I thought you were  
3 offering the --

4 CHAIRMAN JABER: No.

5 COMMISSIONER DAVIDSON: No, this was something --

6 CHAIRMAN JABER: That's why I'm concerned.

7 THE WITNESS: Oh, yes. Yes, sir, then I think we  
8 intend to have a handout, as well. And it will be as biased as  
9 it can be, which is what we are here for as advocates is to  
10 debate this and try and get these rate increases killed.  
11 Excellent idea, yes, sir.

12 CHAIRMAN JABER: Commissioner Baez.

13 COMMISSIONER BAEZ: Madam Chairman, I think in all  
14 fairness, I'm not sure that there is any limitation, that there  
15 was ever any limitation on that to begin with. I think, you  
16 know, it may serve some purpose. But despite what we all  
17 recognize to be the perils of that, I think the parties were  
18 always open.

19 CHAIRMAN JABER: Commissioner Bradley, and then I  
20 will come back to the parties.

21 COMMISSIONER BRADLEY: You know, that sounds like an  
22 excellent idea to me. That provides a forum for all three  
23 parties to present their side and to distribute that, and then  
24 that allows for staff's recommendation to explain what the  
25 purpose is. But to me that allows you -- it gives you an

1 opportunity to explain your side. I think that is an excellent  
2 idea.

3 CHAIRMAN JABER: Well, I don't like that idea. This  
4 is the point.

5 COMMISSIONER BRADLEY: Excellent with the exception  
6 that it should not be a tag along. It should not be attached  
7 to what is staff is handing out. But with the understanding  
8 that you all are going to provide some written information.

9 COMMISSIONER BAEZ: I agree with what I think  
10 Commissioner Bradley is suggesting. I would have a problem  
11 with it being, you know, for instance, placed on the same table  
12 as the Commission's other materials that we normally  
13 distribute. Which is my point of saying whatever, you know,  
14 there really is nothing, and I think I have seen it before in  
15 some cases, there is nothing that prohibits whomever has a  
16 particular opinion or a particular point of view to put it in  
17 writing, and it is not ours to control.

18 COMMISSIONER DAVIDSON: I'm not wed to this. My idea  
19 was to just try and make this process efficient. It really  
20 doesn't matter. I thought, you know, we would have the PSC  
21 sort of educational background, and then if anyone had position  
22 statements, and that is what they are, but these are consumers  
23 and it may be confusing to have everything as part of one  
24 packet, so I never intended any limitation on public handouts.  
25 So however the parties want to distribute, what they distribute

1 is totally up to them.

2 COMMISSIONER BAEZ: I think that has always been the  
3 case.

4 CHAIRMAN JABER: Let me be real clear on my concern,  
5 and make a request to all the parties. Documents that are  
6 clearly marked biased opinion of Mr. John -- you know, that is  
7 your --

8 COMMISSIONER BRADLEY: It should have a disclaimer on  
9 it.

10 CHAIRMAN JABER: But know this, there may be other  
11 biased documents. And my only point is this, the Commission  
12 will not respond to those biased documents. And I am being  
13 real clear I don't want to be put in the position of responding  
14 to any biased document. The staff report and what is in the  
15 staff report, I don't want anything to take away from the  
16 importance of that information. But saying all of that, Mr.  
17 Twomey, you are free to do what you want to do.

18 MR. TWOMEY: Well, of course, Madam Chair. As  
19 Commissioner Baez and Commissioner Davidson recognize, this is  
20 First Amendment stuff.

21 CHAIRMAN JABER: Exactly.

22 MR. TWOMEY: And we are not here to inflame, we are  
23 here to say this is our view of the case, of what they are  
24 asking for, and this is why we think it is inappropriate. But  
25 that is fair stuff.

1           COMMISSIONER BAEZ: But, Mr. Twomey, I think the  
2 Chairman raises a good point. I think this goes for all the  
3 parties that are involved that may be considering going down  
4 this route. You all do so at your peril. And as one  
5 Commissioner, I'm not going to sit and -- I don't think it is  
6 appropriate to be answering whatever claims and whatever  
7 allegations may be made in whatever gets disseminated. I think  
8 we need to be clear on that.

9           And as rude as it may be and as unfortunate as it may  
10 turn out, I mean, I would not like to see us go down this road  
11 for that very purpose. I don't think the Commission is  
12 there -- it is there to take public input, not to hold a trial  
13 and make a decision.

14           MR. TWOMEY: Yes, sir, I understand that. But if I  
15 may, Madam Chair, as you are well aware, you are hearing this  
16 case as administrative law judges, essentially. You are there  
17 to be a trier of fact and law. It is not your position to have  
18 to answer my allegations, AARP's allegations that there is no  
19 benefit to these people by seeing their rates increase 35 to 90  
20 percent, that's the companies' responsibility.

21           And if customers get up and as a result of reading  
22 the newspaper, or whatever, Commissioner, and say how can you  
23 do this to us, then you need to say, I believe, we are sitting  
24 here as judges, we will make a decision November, end of  
25 October, or whatever.

1           COMMISSIONER BRADLEY: But I think that in all  
2 fairness to the Commissioners who are going to be there, Mr.  
3 Twomey, I think that you need to make it crystal clear that  
4 that type of question to a Commissioner is inappropriate,  
5 because we are there just to listen and not to answer or to  
6 prejudge anybody's position.

7           And I would respectfully request that if you are  
8 going to give a handout that you make it clear to the customers  
9 that the Commissioners are just there to listen and not to get  
10 involved in a debate or a discussion.

11           MR. TWOMEY: Yes, sir, that's fair.

12           CHAIRMAN JABER: Okay. Commissioners, with that I'm  
13 ready for a motion.

14           COMMISSIONER DAVIDSON: Dropping the comment I raised  
15 before, recognizing the parties can submit whatever, and I do  
16 believe they all have a First Amendment right, and I trust that  
17 all the parties here will exercise that to the full extent and  
18 in a proper manner. That said, I move that -- I move staff's  
19 recommendation that we grant public hearings at the seven  
20 locations designated by staff, with the noted modification to  
21 notice that the notice will be -- or the hearing will be at  
22 Port Charlotte instead of Punta Gorda. That opening statements  
23 shall be three minutes in length, subject to the discretion of  
24 the presiding officer to modify that time frame as he or he  
25 deems appropriate, and that notice of such public hearings be

1 drafted by staff. And that's my motion.

2 COMMISSIONER BAEZ: Second.

3 CHAIRMAN JABER: Before we take a vote, Ms. Keating,  
4 is there anything else you need from us before we wrap this up?

5 MS. KEATING: I believe that's it, Madam Chairman.

6 CHAIRMAN JABER: Okay. There is a motion and a  
7 second, Commissioners. All those in favor say aye.

8 (Unanimous affirmative vote.)

9 CHAIRMAN JABER: Item 5 is approved as modified.

10 Parties, let me thank you for being here. Senator  
11 Sebesta, thank you for being here. We look forward to these  
12 public hearings.

13 (Agenda Item No. 5 concluded at 10:40 a.m.)

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1  
2 STATE OF FLORIDA )

3 : CERTIFICATE OF REPORTER

4 COUNTY OF LEON )

5  
6 I, JANE FAUROT, RPR, Chief, Office of Hearing Reporter  
7 Services, FPSC Division of Commission Clerk and Administrative  
8 Services, do hereby certify that the foregoing proceeding was  
9 heard at the time and place herein stated.

10 IT IS FURTHER CERTIFIED that I stenographically  
11 reported the said proceedings; that the same has been  
12 transcribed under my direct supervision; and that this  
13 transcript constitutes a true transcription of my notes of said  
14 proceedings.

15 I FURTHER CERTIFY that I am not a relative, employee,  
16 attorney or counsel of any of the parties, nor am I a relative  
17 or employee of any of the parties' attorney or counsel  
18 connected with the action, nor am I financially interested in  
19 the action.

20 DATED THIS 19th day of September, 2003.

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JANE FAUROT, RPR  
Chief, Office of Hearing Reporter Services  
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Administrative Services  
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