

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of

PROPOSED AMENDMENT OF
RULE 25-4.0161, F.A.C.,
REGULATORY ASSESSMENT FEES;
TELECOMMUNICATIONS COMPANIES.

DOCKET NO. 040436-TP



EVALUATION OF METHODS FOR
REDUCING AND/OR RECOVERING
COSTS OF REGULATING
TELECOMMUNICATIONS COMPANIES.

UNDOCKETED

ELECTRONIC VERSIONS OF THIS TRANSCRIPT ARE
A CONVENIENCE COPY ONLY AND ARE NOT
THE OFFICIAL TRANSCRIPT OF THE HEARING,
THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

PROCEEDINGS: WORKSHOP

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

DATE: Wednesday, August 18, 2004

TIME: Commenced at 9:40 a.m.
 Concluded at 2:40 p.m.

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

REPORTED BY: LINDA BOLES, RPR
 JANE FAUROT, RPR
 FPSC Division of Commission Clerk and
 Administrative Services
 (850) 413-6734 and (850) 413-6732

DOCUMENT NUMBER-DATE

09315 AUG 25 8

1 IN ATTENDANCE:

2 NANCY WHITE, appearing on behalf of BellSouth
3 Telecommunications, Inc.

4 J. JEFFRY WAHLEN, appearing on behalf of FTIA.

5 MARK LONG, appearing on behalf of FCCA.

6 CHARLES REHWINKEL, appearing on behalf of Sprint.

7 DR. MARY BANE, CHRIS MOORE, BETH SALAK, DALE MAILHOT,
8 KAREN BELCHER and BLANCA BAYO, appearing on behalf of the
9 Commission staff.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

P R O C E E D I N G S

1
2 CHAIRMAN BAEZ: Good morning. I want to call this
3 workshop to order, and thank you all for being here this
4 morning. We'll go ahead and read the notice first and --

5 MS. MOORE: Yes, Commissioners. The notice of this
6 workshop held for the purpose of discussing amending
7 Rule 25-4.0161 to increase the regulatory assessment fees and
8 to evaluate methods for reducing and/or recovering the costs of
9 regulating telecommunications companies. The notice was issued
10 by the Commission on July 27th, and it was also published in
11 the Florida Administrative Weekly on July 30th.

12 Commissioners, we put together some materials that
13 include the notices and an agenda. There were materials
14 submitted by the telecommunications companies in response to
15 staff's request that they provide certain information to make
16 the discussion today more productive, we hope, and there's also
17 background materials from staff that Mr. Mailhot will discuss
18 later.

19 CHAIRMAN BAEZ: Thank you, Ms. Moore. Commissioners,
20 for my part I felt, as you can see by the notice, this is sort
21 of a combination workshop. We do have the rule development
22 docket officially, and it's also -- there's an undocketed
23 aspect to it as well in terms of considering cost reduction and
24 cost recovery methods that we may not have considered before or
25 it may be appropriate to consider now.

1 My vision for this workshop, I felt that although
2 staff and industry representatives have been meeting on at
3 least a couple of occasions that I can recall, I felt that it
4 was most appropriate to have the Commissioners themselves
5 engaged in the discussion on some level, equal parts to let the
6 Commissioners' views on the matter be known in a, in a, perhaps
7 a more explicit way than, than was available to us during the
8 normal course, as well as an educational opportunity. I know
9 that at least for myself, although as Commissioners we are
10 charged in part with, with the, with the guidance and operation
11 on a daily basis of the Commission, we're very fortunate to
12 have professional staff that handles that aspect of it on a
13 day-to-day basis. And for probably good reason, in my opinion
14 anyway, we are not engaged with sort of operational issues on a
15 day-to-day basis because we are so fortunate to have
16 professional staff to do it.

17 Nevertheless, it is part of our responsibilities as
18 agency heads and collectively I think it's important that, that
19 we get as much information as possible and to really hear from
20 all the participants, including staff, as to why, you know,
21 what the appropriate ways of approaching these issues should
22 be. And so with that, I want to thank everyone for being
23 there. I want to thank the Commissioners for indulging --
24 giving of their time to be here as well to listen to these
25 important issues, and I want to turn it over to our Executive

1 Director, Dr. Bane, who will give us a little bit of background
2 of what's, what's come before and brought us here this day.
3 And she'll -- I'm assuming there's other presentations from,
4 from other staff members, and she'll handle that part for us as
5 well. Dr. Bane.

6 DR. BANE: Thank you, Mr. Chairman. I wanted to set
7 the stage for the workshop just by giving you a bit of
8 background information.

9 By statute, as you know, we are to cover the cost of
10 regulation through regulatory assessment fees, and those fees
11 are to track the cost; in other words, the revenue should track
12 the cost as much as possible. We've had a number of
13 circumstances though that have brought us to the situation
14 today. One is that over the last few years our trust fund,
15 which always had a cushion and served as a buffer, a
16 significant amount, around \$12 million has been transferred out
17 of the trust fund. So we have gotten to the point where last
18 year we had to cut 18 FTEs and we kept positions vacant most of
19 the year just to be able to stay in the black and to cover the
20 cost of regulation so that when we went into this current
21 budget year we had enough dollars to cover the proposed budget.

22 At the same time, there's been a situation where
23 there's a growing disparity between the regulatory costs for
24 the telephone industry and the RAF revenues coming from that
25 industry. Staff had, as we usually do and under statute we're

1 supposed to do, had addressed that shortfall and had put forth
2 rule proposal to increase regulatory assessment fees. We had
3 one staff workshop with the industry and then we had a
4 follow-up meeting, because at the staff workshop we basically
5 had a fairly serious discussion about, are there alternatives?
6 And then we had a follow-up meeting where we engaged in a
7 discussion of the industry's perspective and the staff's
8 perspective.

9 There are basically two ways that you can address the
10 shortfall. We can reduce regulatory cost, and we've been
11 trying to do that over the last year. We will be bringing
12 additional proposals to the Commissioners for this next
13 2005/2006 budget submission. We're looking internally, what
14 can we cut staff-wise, expense-wise? We're also looking very
15 critically at regulatory functions that we have performed
16 historically in terms of do we have to need -- do we need to do
17 them anymore? So we're looking critically. So that's one
18 piece, internal reductions.

19 Other reductions which we hope to have a discussion
20 today with the industry about is what other things can we
21 change procedurally or rule-wise within the agency, and then
22 another piece of it, what can the industry do to reduce
23 regulatory costs that are being incurred by the agency? So
24 that's one piece, that's a major piece, and that's the one
25 that's going to be the bulk of the discussion today is how can

1 we reduce regulatory cost?

2 There's going to be a second piece that's going to
3 talk about the need to recover cost. So the existing cost --
4 if the current RAF rate is insufficient and it is, it's at .15,
5 then how do you recover those other costs that are going to
6 remain even after we have done the cost reductions? **And that's**
7 where we hope to have a very productive discussion of
8 alternative means, whether it's filing fees, whether it's
9 raising that minimum RAF fee from \$50 to something that may be
10 more appropriate, that's been in place for as many years as I
11 can remember. So the whole purpose today is to engage and have
12 the Commissioners hear these issues so that when you are in the
13 position of making decisions, that you will have more
14 information available.

15 Now what we're going to do at the staff introductory
16 remarks, Beth Salak is going -- I think she's given you a sheet
17 that shows the telephone workload, what is driving the
18 regulatory costs associated with telephone. Then Dale Mailhot
19 is going to walk you through a couple of sheets that are in
20 your package that show what has been the historical trend for
21 the agency in terms of expenditures and expenses and then
22 specifically for the telecommunications industry. **And then**
23 Chris will open it up for the -- I think there will be a couple
24 of brief presentations by the industry, and then we're going to
25 have hopefully a give and take, an exchange, a discussion on

1 those areas, how to reduce cost, and then the same thing on
2 cost recovery so that we can get input from the industry in
3 terms of how can we do things differently, both reducing costs
4 and funding the regulatory costs that will continue.

5 With that, I'd like to turn it over to Beth Salak.

6 MS. SALAK: Commissioners, I did hand you out a sheet
7 prior to the workshop, and these are just what I consider our
8 major workload areas and some information that I thought you
9 might not know about, some things that we do do behind the
10 scenes that you don't necessarily see all the time.

11 It's my belief that our workload is driven by
12 external forces, that we aren't personally creating it, that
13 most of it is dealing with petitions filed by the industry or
14 consumer complaints.

15 We put emphasis on things that we think that will --
16 are barriers to processing items that we think that will help
17 the competitive markets. I did want -- most of these on the
18 major workloads you're going to be familiar with because you're
19 going to see them before at agenda. I want to emphasize that
20 we do do work before it hits agenda to see if it can be
21 resolved through negotiations or through other matters or
22 resolution between the customer and the company.

23 I just wanted to briefly mention the
24 behind-the-scenes things that we do, which are, again, driven
25 by, I believe, the industry: Tariff filings that we see that

1 all have to be processed; price lists; certifications, which
2 may make a consent agenda normally; but registrations, IXC
3 registrations which are handled administratively; name changes.
4 We -- we're proud of our consumer education that we put forth
5 and we think it's well worth helping the industry in that way.
6 We have adoptions of interconnection agreements, there are
7 negotiated interconnection agreements that all need to be
8 filed, and we do do certain area code work. We reclaim numbers
9 and we do -- we help the industry in helping them with their
10 code denials through an administrative process we have set up.

11 So my point is, is that we have varied workload in
12 the industry, we have various topics that need to be handled
13 for staff throughout, and that we believe that we're not
14 driving, the driving force of the cost, but we are certainly
15 willing to work with the industry on any issues they would like
16 to work with us.

17 COMMISSIONER DAVIDSON: Chairman?

18 CHAIRMAN BAEZ: Commissioner Davidson.

19 COMMISSIONER DAVIDSON: I have a -- some general
20 questions I wanted to ask Dr. Bane, but we moved right into, to
21 Ms. Salak quickly.

22 CHAIRMAN BAEZ: You can go ahead and jump in any
23 time.

24 COMMISSIONER DAVIDSON: Thank you.

25 Dr. Bane, and I appreciate staff's effort to focus on

1 sort of both aspects of, of the problem, not just increases,
2 proposed increases to the RAFs, but also on efforts to
3 streamline costs and, and address ways in which the industry
4 may, may help contribute to a lessening of the cost.

5 I want to focus just for a few minutes on the actual
6 proposed, and I know there are proposed RAF increases, just
7 so -- I want to make sure my understanding is correct. Is it
8 correct that where we stand right now, staff is proposing a
9 change to the RAF rate from the current .15 percent to a
10 proposed .23 percent of gross operating revenues?

11 DR. BANE: Yes, sir. That was the proposal at the
12 time the rulemaking was noticed. That does -- is subject to
13 change as the revenue projections are adjusted.

14 COMMISSIONER DAVIDSON: But as we sit here today,
15 that's the --

16 DR. BANE: That's what's out there, yes, sir.

17 COMMISSIONER DAVIDSON: -- that's the proposal.

18 Is it accurate to state that if that occurs, that
19 would constitute an increase in telecom RAFs of approximately
20 53 percent?

21 DR. BANE: Yes, sir. Dale Mailhot is nodding.

22 COMMISSIONER DAVIDSON: Do you have a rough estimate
23 of the dollar impact, and I know we'll hear this from the
24 companies, but I'm wondering if staff has now a rough impact, a
25 rough estimate of the impact, dollar impact that that proposed

1 increase, if enacted, would have upon all of the
2 telecommunication companies subject to the proposed increase?

3 DR. BANE: I believe Dale has broken that down by
4 industry and subindustry. Dale, do you have those numbers in
5 front of you?

6 MR. MAILHOT: If you're asking what's the total
7 impact on the telecommunications industry --

8 COMMISSIONER DAVIDSON: Yes.

9 MR. MAILHOT: -- it'd be in the neighborhood of \$4.5,
10 \$4.8 million, something like that.

11 COMMISSIONER DAVIDSON: Thank you.

12 Dr. Bane, do you agree with the proposition that if
13 the, the RAF is approved, that it will be the industry and the
14 consumers of the state who will bear, directly or indirectly,
15 that increase?

16 DR. BANE: Yes, sir, I believe that's what the
17 statute provides.

18 COMMISSIONER DAVIDSON: Dr. Bane, if you know, what
19 is the total average tax on the residential telephone bill for
20 customers in Florida?

21 DR. BANE: I don't know that.

22 COMMISSIONER DAVIDSON: Do you know that number for
23 the business phones?

24 DR. BANE: No, sir, not personally.

25 COMMISSIONER DAVIDSON: If I indicated that -- and I

1 don't mean this to be cross. I just want to get a lot of this
2 information on the record. If, if I indicated that the total
3 average tax, all federal, state and local taxes on the
4 residential phone was approximately 10 percent, would -- does
5 that sound right or incorrect to you? I mean, would you need
6 staff to, to check on that? And they don't have to do that
7 now. I just want to -- my -- I've done a fair amount of
8 research on this issue, and it appears that for Florida the
9 total average federal, state and local tax is 10 percent on the
10 residential phone and 17.2 percent on the, on the business
11 phone.

12 DR. BANE: I think we would defer to your research.

13 CHAIRMAN BAEZ: Commissioner Davidson, and I think
14 maybe, maybe there might be industry representatives that may
15 speak later to that question.

16 COMMISSIONER DAVIDSON: Well, I'm sure. And I've got
17 just one more, one more, one more -- two more questions
18 actually.

19 On the -- an Ernst & Young study, 1999 study, and
20 this was the most recent sort of comparison of states across
21 the country that I could find, rank the states with the ten
22 highest tax rates and the states with the ten lowest tax rates.
23 Florida, unfortunately, was ranked as one of the states with
24 the ten highest tax rates. It was ranked number five after
25 Rhode Island, New York, Utah and Texas; Florida is number five.

1 As we sit here today, do you know where Florida ranks
2 nationally in terms of its total telecommunications tax rate
3 compared to other states?

4 DR. BANE: Now are you talking about -- I'm getting a
5 little confused. We have a telecommunications tax and then we
6 have the regulatory assessment fees.

7 COMMISSIONER DAVIDSON: This is just the
8 telecommunications effective tax. It's not, it's not the
9 regulatory assessment fee.

10 DR. BANE: No, sir, I don't know. But I do know that
11 in the state of Florida when they aggregated all of the
12 different sources, all of the different entities who were
13 taxing telephone companies, and there were some major
14 efficiency goals to be achieved by that and consolidation, that
15 our rate -- you may not be able to compare it to other states
16 because now all of the taxes flow, on the telephone companies
17 flow through a single source in the state. And then it's
18 allotted out to the counties and the cities so that that
19 consolidation may not have occurred in other states, and ours
20 would appear higher because a lot of different things are being
21 aggregated into one, quote, telecommunications tax.

22 COMMISSIONER DAVIDSON: Do -- is, is it your opinion
23 that if some \$12 million had not been transferred out of the
24 trust fund, that we would not be sitting here today discussing
25 RAF increases?

1 DR. BANE: I think we would have had to have the
2 discussion because the statute tells us that we have to cover
3 the cost of regulation, that the industry that's being
4 regulated is supposed to cover the cost of regulating that
5 industry. However, we would have had the flexibility to wait
6 and see, I think, whether that workload was going to decline
7 as -- over the next three to four years. So we wouldn't have
8 been in the situation where we have no choice.

9 Now I will tell you that the Auditor General has
10 criticized us twice for not taking action. Most recently this
11 last AG report said that we should already have raised the RAF
12 rates for selected industries. They expect us to cover the
13 cost, that the industry should cover the cost of its
14 regulation.

15 COMMISSIONER DAVIDSON: And I understand that. And
16 with all due respect to the Auditor General, I'm not
17 necessarily going to agree that directly or indirectly taxing
18 the industry and/or the consumers of the state of Florida is
19 the best way to do that. I understand that some within
20 government may have a different mind-set as to how to cover
21 that. And, again, I do respect the AG's opinion on that.

22 Let me ask you, within the past -- and this is my
23 last question at this point. Within the past, let's say, five,
24 five years, in what proceedings -- have there been other
25 rulemakings by which staff has considered changes to the rules

1 to reduce the regulatory cost, to impose filing fees on the
2 industry? Have there, have there been formal rulemaking
3 proceedings to address this issue?

4 DR. BANE: The -- we have undertaken formal
5 rulemaking to reduce costs internally in a number of areas,
6 water and wastewater and telephone specifically, over the last
7 five years.

8 COMMISSIONER DAVIDSON: All right. That's fine. I
9 have no more questions at this time, Chairman.

10 CHAIRMAN BAEZ: Thank you, Commissioner.
11 Commissioner Bradley, you had some questions.

12 COMMISSIONER BRADLEY: Well, I don't know if mine is
13 necessarily a question, but I would like to put some things out
14 there before we begin the process that I've been thinking
15 about. And hopefully during the discussion these issues will
16 be addressed by the parties that, that are going to participate
17 this morning.

18 CHAIRMAN BAEZ: Good ahead, Commissioner.

19 COMMISSIONER BRADLEY: And I want to frame my
20 concerns by, by saying that as I thought about this process, a
21 couple of different things came to -- well, as I think about
22 it, a couple of different things come to mind. One is effort,
23 effectiveness and efficiency of this process that exists
24 between -- the regulatory process and what this agency -- and
25 how the various regulatory -- the various regulated entities

1 interact with this agency.

2 And I heard what Dr. Bane said when she made mention
3 of the fact that we have a statutory requirement that telecom
4 pay its own way and not be subsidized by other industries. And
5 in my opinion that gets to the point of paying to ensure that
6 we have a healthy PSC. It's cheaper, in my opinion, than
7 paying for litigation in civil courts.

8 A little bit about litigation. Litigation costs in
9 courts are much higher than cases before the PSC. The PSC has
10 the technical and public policy expertise to render judgments
11 with better results for the state of Florida in my opinion.
12 The PSC processes are much faster than litigation, civil
13 litigation, leading to much less delay in reaching a decision.
14 Companies that want disputes resolved are going to pay one way
15 or the other: Either the PSC with speed and efficiency,
16 technical knowledge, access to mediation, et cetera, or pay a
17 much higher cost to litigate in civil court.

18 As it relates to the statutory requirement to process
19 initial interconnection arbitrations -- and to process, I'm
20 sorry, interconnection arbitrations, it is unclear to me as to
21 what the statutory requirement is as it relates to the PSC, but
22 we still, the PSC still handles those complaints. **And also I**
23 think that we need to give consideration to the analogy that
24 sometime maybe between -- or sometimes pointed out as it
25 relates to water and wastewater SARCs when staff was reduced.

1 The number of SARCs that could be processed was reduced and now
2 most small companies have an extensive wait before they can get
3 rate increases approved. I don't think this benefits anyone,
4 and the companies in particular or the consumers.

5 Also, and I'm just putting some things out here, if
6 the PSC has to reduce staff, it may not be automatically in
7 areas that telecom companies find disadvantageous to
8 themselves. Possible reductions could come from areas that the
9 utilities perceive as being very valuable to them. That goes
10 back to the issue of maybe creating a more litigious
11 environment.

12 And, again, as I started out up top, we -- talking
13 about effort, effectiveness and efficiency, we have to consider
14 the effects on the efficiency of the PSC as a whole.
15 Reductions/changes in one area always impact other divisions or
16 bureaus. We can't just reduce in one area and not to -- and
17 not expect to have an effect on other critical PSC functions.

18 Further changes at the PSC can result in changes to
19 companies also. A reduction in PSC dockets or types of dockets
20 could result in the reduction of -- in competent staff
21 dedicated to the PSC process. Regulatory affairs offices might
22 find themselves impacted by a reduced PSC, all to save a small
23 percentage of RAFs.

24 And that is basically -- these are the issues or the
25 items that I've been running through my mind, and I hope that

1 as we discuss this process, that we touch on, on these various
2 concerns that I have as a Commissioner so that I can clearly
3 understand what there is that might be impacted within this
4 process as it relates to effort, effectiveness and efficiency
5 of this process and what's good for the state of Florida.

6 CHAIRMAN BAEZ: Thank you, Commissioner Bradley.
7 Commissioners, if there's no other questions at this time, I
8 think Ms. Salak was almost finished with her presentation.

9 MS. SALAK: Yes, sir.

10 CHAIRMAN BAEZ: Okay. Go on ahead.

11 MS. SALAK: Unless you have any, unless you have any
12 questions, I'm -- we can move on.

13 CHAIRMAN BAEZ: Commissioners, any questions of Ms.
14 Salak?

15 COMMISSIONER DEASON: I believe -- wasn't Mr. Mailhot
16 going to go over some spreadsheets? Is now the appropriate
17 time?

18 CHAIRMAN BAEZ: We're just moving on to him now, I
19 think, Commissioner. Yes.

20 COMMISSIONER DEASON: Okay.

21 MR. MAILHOT: Okay. You were provided with a little
22 handout yesterday, a little booklet. Behind the last tab in
23 that booklet is some financial information. I'd like to refer
24 you to what I believe is like the second page. It's titled
25 Total FPSC Revenues, Expenses, Fund Balance and Authorized

Positions. What I've tried to do here is summarize --
2 basically it's eight years' worth of information. It's the
3 last six years of actual data related to the Commission, it's
4 the current budget year and then a projection for the next
5 fiscal year.

6 A few things on this schedule that I think are
7 important to realize is there's a line there near the top
8 that's titled Authorized Positions. I think what that -- you
9 can see there is that over this 8-year time frame the
10 Commission has actually reduced the number of employees here.
11 I mean, we peaked in '99/2000 at 401 employees, or these are
12 authorized positions, and our current budget year we're down to
13 361, which is approximately a 10 percent decline.

14 On Line 1 or the line that's numbered one you can see
15 our regulatory asses4sment fee revenues. They peaked in
16 2001/2002 at about \$30.5 million, and since then they've been
17 more or less on a decline each year. On Line 2 that's titled
18 Miscellaneous Revenues, in the early years on this schedule
19 what's included in there is interest income, which the
20 Commission used to receive interest income on the money that we
21 had in our trust fund. Essentially in 2002/2003 you can see
22 there's a drop from \$1.390 million down to \$512,000 on that
23 line, and then a further decline to about \$100,000. What that
24 represents is the state of Florida decided that we would not
25 have any interest -- we would not keep the interest income on

1 our trust fund balance any longer, so that's not available for
2 us to use for our operations. So that's another loss in
3 revenue that's occurred to us.

4 On Line 3 is the service charge. What that
5 represents is we have to pay approximately 7.3 percent or
6 7.2 percent of our revenue that we collect is paid into the
7 general revenue fund as a service charge. That money goes to
8 the state. So if we collect a dollar in regulatory assessment
9 fee revenue, we do not keep that entire dollar. Like I say, a
10 little over 7 percent of it goes to the state.

11 On Line 5 it shows our operating expenditures over
12 this time period. And I think you can see we started out at
13 \$26.5 million, and our current operating expenditures are not
14 much above that over the entire 8-year period. It's been a
15 very, very low growth rate in expenditures for this Commission.
16 We've, we've kept our expenses under control.

17 On Line 6 you can see there's a surplus or a deficit,
18 and what that represents is the difference between what we take
19 in and what we have to spend. The last two fiscal years we've
20 experienced a deficit. It was \$950,000 one year and \$839,000
21 the next. It's expected to grow significantly here as our
22 revenues continue to decline and our expenses increase
23 somewhat.

24 On Line 7 I've listed the transfers that have
25 occurred to the general revenue fund or outside of this agency,

1 money that's been taken, taken out of our trust fund, and that
2 amount is actually closer to \$14 million during the 3-year
3 period that's shown there.

4 In the bottom on Line 8 where I've shown the fund
5 balance, in the last column what you can see is a fund balance
6 of negative \$78,000. It's important to realize that we cannot
7 have a balance of negative \$78,000. We're essentially required
8 to have a balance of approximately a positive \$1.3 million. We
9 have to maintain sort of like a minimum balance in our trust
10 fund. Okay. And so what you can see here is if nothing is
11 done, we will be well below that \$1.3 million.

12 CHAIRMAN BAEZ: Dale, when you say required --

13 MR. MAILHOT: It's my understanding that it's
14 required by the state.

15 CHAIRMAN BAEZ: Okay.

16 MR. MAILHOT: I mean, it's not our requirement. It's
17 not an internal requirement.

18 CHAIRMAN BAEZ: All right.

19 MR. MAILHOT: I'm not sure if it's required by the
20 Legislature or the Governor's Office, but it's required.

21 CHAIRMAN BAEZ: Okay. Thanks.

22 MR. MAILHOT: That, that schedule, that page
23 represents the Commission operations in total. On the next
24 page, the next page is titled Telecommunications Revenues and
25 Expenses. And what I've done here is presented the same time

1 period with the revenues and expenses more specifically related
2 to the regulation of telecommunications. I think you can see
3 sort of the same pattern here where in the early years or for a
4 number of years we had a surplus more or less regulating
5 telecommunications companies, but then in the last two years
6 we've moved into a fairly large deficit. As a matter of fact,
7 the way we're operating today, the deficit for
8 telecommunications is greater than the total Commission
9 deficit. And that's -- in a nutshell what that means is for at
10 least right now temporarily other industries are supporting
11 telecommunications.

12 I think probably one of the more important things on
13 this schedule, on Line 1 in the revenue section there's a
14 fairly large decrease in revenue between 2001/2002 versus
15 2002/2003. What you see there is the revenue went down from
16 \$11.4 million to about \$10.2 million. That was a significant
17 decline in our revenue at that point. And what that resulted
18 from was the Supreme Court decision related to directory
19 advertising revenue. We lost approximately \$1.5 million in RAF
20 revenue at that point in time, and we did not change our RAF
21 rate then to make up for it. So that was really just a loss in
22 revenue with no, virtually no change in workload.

23 And I think at this point that kind of concludes the
24 summary to show you the financial picture of the, why we're
25 here today. And I don't know if there's any other specific

1 questions about these schedules right this minute or --

2 CHAIRMAN BAEZ: Commissioners, any questions?

3 Dr. Bane -- or Ms. Moore. I'm sorry.

4 MS. MOORE: Perhaps now the companies could give
5 their introductory remarks before moving on to a discussion.

6 COMMISSIONER DEASON: Mr. Chairman, I'm sorry. I did
7 have one question for Mr. Mailhot.

8 CHAIRMAN BAEZ: Go ahead, Commissioner.

9 COMMISSIONER DEASON: I'm looking at the
10 telecommunications specific numbers and I'm looking at the
11 service charge column, I mean row, Row 3. In the 2002/2003
12 time period there seemed to be a significant increase. Was
13 that, was that some type of a one-time service charge?

14 MR. MAILHOT: No. What that is is when I prepared
15 this schedule, there was an item that year, it was a large
16 refund to one of the telephone companies is what it was. And
17 so --

18 COMMISSIONER DEASON: And that had to do with yellow
19 page advertising or was it --

20 MR. MAILHOT: Yes.

21 COMMISSIONER DEASON: It did? Okay. Thank you.

22 COMMISSIONER JABER: Mr. Chairman, I, I want to wait
23 until the end of the staff presentation to ask a couple of
24 clarifying questions. Are you at that point?

25 CHAIRMAN BAEZ: I, I think we are, yes.

1 COMMISSIONER JABER: Okay. Ms. Salak, I think these
2 are appropriate for you, and then to the degree someone else
3 needs to answer them, just feel free to jump in. These are
4 very informal questions.

5 I'm trying to understand in the major workload areas
6 what all might be encompassed in your list that is just not
7 clearly stated.

8 For example, on the legislative report bullet --

9 MS. SALAK: Yes, ma'am.

10 COMMISSIONER JABER: -- Market Assessment Legislative
11 Report, is this only the competition report? What are, what
12 are the various statutory requirements for us to report to the
13 Legislature and the Governor?

14 MS. SALAK: We do have the competition report, yes,
15 and included in that are -- we bring in -- there's also a
16 requirement that we report complaints due to CLEC, ILEC
17 complaints that gets incorporated into that. And any -- there
18 are about six, seven checklist items that we need to do about
19 costs and increases in rates and things like that that have to
20 be addressed in that.

21 In addition, we have the relay report. That's due at
22 the end of the year. We now have the Lifeline report that's
23 due. And those are the only ones I can think of. Can you -- I
24 believe those are the major reports.

25 COMMISSIONER JABER: Those are the three. We had to

1 do the Lifeline report in previous years, but there's a little
2 bit more -- a more comprehensive requirement now.

MS. SALAK: Yes, ma'am.

COMMISSIONER JABER: It's probably fair to say that
5 while we always had to do the Lifeline report, there's more
6 information you have to gather now; is that correct?

7 MS. SALAK: That is correct, ma'am.

8 COMMISSIONER JABER: Okay.

9 MS. SALAK: This will be our second year doing it in
10 a comprehensive manner, and we're honing in on it and trying to
11 improve it.

12 COMMISSIONER JABER: Okay. I don't mean to put you
13 on the spot, and if I would have thought of this question
14 earlier, I would have certainly passed it on.

15 MS. SALAK: Certainly.

16 COMMISSIONER JABER: But I notice you don't have like
17 time periods associated with these requirements. I consider
18 the reporting requirements the right thing to do, but an
19 obligation nevertheless.

20 Do you have -- can you give me sort of an estimate of
21 how much time goes into compiling data for these reports and
22 then, of course, producing the reports in a fashion that's
23 useful to the Legislature and to the Governor?

24 MS. SALAK: Uh-huh. We -- well, the relay report, we
25 compile information all year long. That's -- it has to do with

1 statistics, and we use anything that we have in-house and we
2 try to minimize the time associated with that. But we do -- we
3 probably spend all in all maybe a week's worth of time on that
4 one, the relay report.

5 COMMISSIONER JABER: A week?

6 MS. SALAK: Yes.

7 COMMISSIONER JABER: Okay. Now that's a week
8 producing it or also -- are you counting your data requests
9 that go to the company or --

10 MS. SALAK: We don't send a data request in that, in
11 that sense because we, we streamlined the process in the sense
12 that as the bills come in for relay, we gather a lot of
13 information monthly so that it's, automatically the information
14 is collected and we try to do it in that fashion.

15 COMMISSIONER JABER: You're the holder of the data.

16 MS. SALAK: Yes, ma'am.

17 COMMISSIONER JABER: Okay.

18 MS. SALAK: So we, we just incorporate that into the
19 report at the end.

20 The competition report, as you may well know, is, is
21 handled by the market monitoring section, and they do monitor
22 things throughout the year. They monitor decisions by the
23 Commission, what's happening at the FCC, and anything that
24 could impact competition. So they're aware of what's happening
25 and so they can put that into, into the report. We meet once a

1 year so that we can, we can provide input for dockets that
2 we've been handling that we think would be pertinent. They get
3 information from the group that handles all the FCC complaints
4 or issues. And then we do the data -- we do keep the, some of
5 the data on a, on a going-forward basis like all the IXC --
6 CLEC, ILEC complaints, we have that on a going-forward basis.
7 But they do do data requests. It is, it is extremely
8 time-consuming for market monitoring to gather the information
9 partly because they'll send out the request and we don't get
10 responses from the industry and they have to keep trying to get
11 the information. I'm sure Ms. Bass could answer this question
12 better since it's handled by her shop. But it is a
13 comprehensive report, so it does take some resources to get
14 that done as well as, as well as we all know it is done.

15 COMMISSIONER JABER: Okay. And then Lifeline, the
16 Lifeline report.

17 MS. SALAK: The Lifeline report. As I mentioned,
18 this will be our second year that it will be a comprehensive
19 report. In keeping with Lifeline and, and a duty that just
20 transferred to our division, so this will be the first time our
21 division has done it, there are a couple of things that are
22 involved in that. One is that there are continuing obligations
23 that we have that get rolled into the Lifeline report, meeting
24 with other agencies, finding out information from other
25 agencies that all culminates in that report. But meanwhile we

1 have other duties that we, that we are assessing that end up
2 in, in the report.

3 We are in the process of finishing up the data
4 request to send to the industry, and then we'll get those
5 responses and then we'll compile those also.

6 But as I mentioned, we try to keep up with it during
7 the year and we're trying to work on that, on that basis.

8 COMMISSIONER JABER: As it relates to all three of
9 those reports, there are no fees collected, set aside the
10 regulatory assessment fees, but there are no additional fees
11 that come to you from the industry to cover any cost of
12 assessing the information or processing the information; is
13 that correct?

14 MS. SALAK: That's correct.

15 COMMISSIONER JABER: Okay. Let me switch gears on
16 you.

17 MS. SALAK: Sure.

18 COMMISSIONER JABER: The consumer complaint and
19 inquiry bullet, have you -- does that incorporate the costs
20 associated with maintaining the warm transfer program?

21 MS. SALAK: That would be contemplated by that. We
22 have the warm transfer program where we've tried to eliminate
23 some of our costs and, and it's my understanding is working
24 quite well for the industry. That would -- what I was trying
25 to incorporate in that is that we have a high percentage of the

1 complaints that come into the Commission, I'm believing around
2 70 percent, are telecommunications related. So we have to --

3 COMMISSIONER JABER: 70 percent?

4 MS. SALAK: I believe that's the correct percentage.

5 COMMISSIONER JABER: 70 percent of the calls or
6 inquiries that come in are telecom related?

7 MS. SALAK: Yes, ma'am.

8 COMMISSIONER JABER: Okay. Now --

9 MS. SALAK: That probably varies from 65 percent to
10 70 percent. Sorry I interrupted.

11 COMMISSIONER JABER: Okay. And remind me, the warm
12 transfer program was designed to handle calls to the consumer
13 as efficiently and quickly as possible, but it was also
14 designed to provide an incentive to companies to do the right
15 thing without penalizing them for nonperformance.

16 MS. SALAK: Yes, ma'am. That's my understanding.

17 COMMISSIONER JABER: And, again, this puts you on the
18 spot. There's probably a savings associated with carrying that
19 program further, carrying it forward.

20 MS. SALAK: I think there's definitely a savings to
21 the industry and a savings to us too, yes.

22 COMMISSIONER JABER: Do you have any idea what that
23 number is?

24 MS. SALAK: I don't.

25 COMMISSIONER JABER: As we go forward -- I mean, this

1 discussion probably doesn't end today. I'd be interested in
2 what that number is.

3 MS. SALAK: Yes, ma'am.

4 COMMISSIONER JABER: Again, there's no fee associated
5 with how we handle that program or anything that compensates us
6 for handling what's turned into a very efficient, commendable
7 program.

8 MS. SALAK: Yes, ma'am. That's true. No fee.

9 COMMISSIONER JABER: But on the other hand, if we
10 discontinued the program, it might result in additional
11 penalties to the industry.

12 MS. SALAK: I agree.

13 COMMISSIONER JABER: Internet activity, do any of
14 your bullets incorporate the work we do processing complaints
15 that come to us on-line or the Internet frequently asked
16 questions that might relate to the telecommunications industry
17 or press releases in an effort to do consumer outreach? Where
18 in your major workload areas may that be included?

19 MS. SALAK: I think it would be consumer complaints
20 and inquiries and then also consumer education. That's where I
21 would -- that's where I was thinking they all went.

22 COMMISSIONER JABER: Do you have a separate number
23 associated with how we do consumer outreach and, frankly,
24 industry outreach specific to the telecommunications industry?

25 MS. SALAK: I don't -- they would be incorporated

1 into our figures for what was happening in the what was termed
2 'consumer affairs" before it would have all been --

3 COMMISSIONER JABER: But you don't have a separate
4 number associated to what we do on our Web site?

5 MS. SALAK: No, ma'am.

6 COMMISSIONER JABER: If we were to consider
7 discontinuing much of that good work, I guess there would be a
8 cost associated with going back to processing complaints
9 manually. Do you have -- I mean, maybe we need to look at what
10 our costs were prior to having that Web site and taking on-line
11 complaints versus what the costs are today and that gives us a
12 good proxy. I'm not suggesting we discontinue the good work on
13 our Web site, Dr. Bane, but I bet we saved the agency a lot of
14 money and we probably saved the industry a lot of money by how
15 quickly those kinds of complaints go to them. And then also
16 our part in the consumer outreach has taken some work away
17 from, from them.

18 DR. BANE: And I don't think we could have handled
19 the increased magnitude in complaints and inquiries if we had
20 not had that electronic assistance because they have increased
21 exponentially over the last nine to ten years.

22 COMMISSIONER JABER: Okay. My final question related
23 to the major workload areas. I feel the weakest in terms of
24 what happens in our clerk's office because, frankly, I think
25 it's a compliment to them; so much of that is seamless to the

1 Commissioners and probably to internal staff. But I bet the
2 efficiencies that have been attained in our clerk's office has
3 saved all of the industries a lot of time and money, and in
4 that regard my questions are the following.

5 Now that outside folks can access the CMS system and
6 now that there's the electronic filing system, any of those
7 operations, are there additional fees that come to the agency
8 for those kinds of efficiencies? And efficiency isn't the
9 right word. What is it? Convenience. It's administrative
10 convenience. Are there fees associated with being able to
11 access our network 24 hours a day, 7 days a week? And I know
12 that because I've taken advantage of it myself.

13 DR. BANE: No, there are no fees for that.

14 COMMISSIONER JABER: So free of charge they can
15 download any document any time of the day?

16 DR. BANE: Yes, ma'am.

17 COMMISSIONER JABER: Okay. I don't have any other
18 questions for now, Mr. Chairman.

19 CHAIRMAN BAEZ: Commissioner Bradley, you had some
20 questions.

21 COMMISSIONER BRADLEY: Yes. I need to, I need to
22 clear up something in my mind. And I'm looking at the major
23 load, major workload areas that are listed on the sheet that
24 was passed out.

25 Is it true that there's a statutory requirement to

1 process initial interconnection arbitrations? According to
2 your sheet is that, is that --

3 MS. SALAK: Pardon me?

4 COMMISSIONER BRADLEY: Is there a statutory
5 requirement --

6 MS. SALAK: That we have --

7 COMMISSIONER BRADLEY: -- to process these
8 arbitrations?

9 MS. SALAK: Yes, sir.

10 COMMISSIONER BRADLEY: Okay. Is there a statutory
11 requirement to process -- to get involved in amendments,
12 changes or subsequent arbitrations?

13 MS. SALAK: There are FCC requirements, and they have
14 to file agreements in-state also.

15 COMMISSIONER BRADLEY: Okay. But is there a
16 statutory requirement that we get involved in these amendments,
17 amendments, changes and subsequent arbitrations, or is it that
18 we just have a statutory requirement to get involved in initial
19 arbitrations?

20 MS. SALAK: We have a requirement from the FCC that
21 we do the adoptions, and we have the negotiated agreements on
22 file. Yes.

23 COMMISSIONER BRADLEY: But that's -- it's not
24 statutorily required, it's just something that the FCC --

25 MS. SALAK: No. We also have to look at -- through

1 the state we have to also look at -- have all the filings here,
2 the contract filings.

3 DR. BANE: I think though that there is some
4 difference because -- I'd like to get one of the attorneys,
5 Beth Keating or someone, here because several years ago one of
6 our budget reduction proposals had to do with not processing
7 certain ones of those, and I don't know whether it was the
8 repeat or the revisions or --

9 COMMISSIONER BRADLEY: Okay. You want me to ask my
10 question again?

11 DR. BANE: Did you hear the question?

12 MS. KEATING: I think I got the question,
13 Commissioner. But if I don't respond to you, let me know and
14 I'll try to --

15 COMMISSIONER BRADLEY: Okay.

16 MS. KEATING: Most of the arbitrations that you see
17 come before you today are filed pursuant to the Federal
18 Telecommunications Act. The Commission processes those in
19 accordance with those requirements, but is authorized pursuant
20 to state law to handle those cases.

21 The federal law provides that if the state commission
22 does not handle the arbitration, then the companies can go to
23 the FCC. So it, it contemplates the state commission would do
24 it, but it does provide an alternative means for relief.

25 COMMISSIONER BRADLEY: Okay. And I don't know if you

1 answered my question or not, but my -- let me see if I can ask
2 it again.

3 Okay. Initial interconnection arbitrations versus
4 subsequent amendments, changes and subsequent arbitrations, is,
5 is there a statutory requirement for initial arbitrations but
6 not a statutory requirement for subsequent amendments, changes
7 or subsequent arbitrations?

8 MS. KEATING: There's really no differentiation that
9 I'm aware of under the federal act between an initial
10 arbitration and an arbitration for an update to an
11 interconnection agreement. Now if you're differentiating
12 between an arbitration and a complaint, the jurisdiction for
13 that is --

14 COMMISSIONER BRADLEY: Okay.

15 MS. KEATING: -- is derived largely from state law
16 and from case law interpreting the Telecommunications Act. But
17 I don't -- I, I don't think there's any real statutory
18 difference between an initial arbitration and a subsequent
19 arbitration, I guess is what I'm trying to say.

20 COMMISSIONER BRADLEY: Okay.

21 CHAIRMAN BAEZ: Commissioner Deason, you had a
22 question.

23 COMMISSIONER DEASON: While Ms. Keating is at a
24 microphone, I was -- probably had a question that she would
25 need to be the one to answer, so probably now is a good time to

1 ask it.

2 What in either Chapter 364 or the Federal
3 Telecommunications Acts, what things that fall under our
4 jurisdiction do we have a statutory mandated time frame in
5 which to process those?

6 MS. KEATING: Let me make sure I understand your
7 question. You're asking what things do we do under the federal
8 act or under either --

9 COMMISSIONER DEASON: Or 364, what is it that, that
10 we're charged to do that we're charged to do and also charged
11 to do it within a specified time frame?

12 MS. KEATING: Arbitrations are the first things that
13 come to mind. The time frames that are in the federal act are
14 slightly different than the ones that are in the state law, but
15 most cases that are filed for arbitration are, are going under
16 the, the federal act.

17 COMMISSIONER DEASON: So if, if it is filed here, if
18 it's filed pursuant to the federal act, then the federal act
19 time frames control?

20 MS. KEATING: That is correct.

21 COMMISSIONER DEASON: What is that to process an
22 arbitration? Do you recall what the federal time requirements
23 are?

24 MS. KEATING: Well, from beginning to end it's
25 supposed to be a 9-month time frame. From the beginning they

1 initiate negotiations for an interconnection agreement through
2 the Commission's final decision, it's supposed to be a 9-month
3 total time frame.

4 CHAIRMAN BAEZ: But, but there is part of that time
5 frame that has no -- that doesn't concern the Commission
6 strictly speaking; right?

7 MS. KEATING: Right. Up to the -- I'm sorry, Mr.
8 Chairman, but that's correct. They have --

9 COMMISSIONER DEASON: From the time it's filed with
10 us as a dispute or whatever the terminology is, once it's
11 placed in controversy before the Commission, what time frame do
12 we have?

13 MS. KEATING: The window that they have for filing,
14 and I'm sorry I don't have my statute book before me, but I
15 believe it's between the 135th day and the 160th day. And we
16 have from that date through to the end of what would be the
17 9-month window.

18 CHAIRMAN BAEZ: So I guess quick math, as little as
19 110 days and as much as 135 days essentially.

20 MS. KEATING: That sounds about right, Mr. Chairman.

21 CHAIRMAN BAEZ: Okay.

22 MS. KEATING: Your math is probably better than mine.

23 CHAIRMAN BAEZ: Oh, I'm sure it's not, but.

24 COMMISSIONER JABER: But what -- the reports have
25 statutory time frames. Don't we have to submit the reports

1 by -- is it October 1st or December 1st?

2 MS. SALAK: Depending on the report, they vary. The
3 reports, the Lifeline report is due 12/31, the relay report is
4 due 12/31 and the competition report is due December 1st.

5 COMMISSIONER JABER: Okay. So all of the reports
6 have a statutory time frame. Aren't there, aren't there
7 collocation -- I haven't seen any cases lately, but aren't
8 there collocation issues that have time frames? I think,
9 Commissioner Deason, I don't want to put words in your mouth,
10 but your question was that broad, wasn't it? What are all the
11 things that, that obligate us to a certain time frame?

12 COMMISSIONER DEASON: That's correct.

13 MS. KEATING: You may be recalling the -- oh, I'm
14 sorry.

15 COMMISSIONER DEASON: I'm sorry. Yes. The question
16 was broad. I mean, it wasn't just arbitrations. If there are
17 other things that you're -- which you are aware of that have a
18 specified time frame to process.

19 MS. KEATING: We do have a number of things that have
20 time frames set for them that are not necessarily set by
21 statutory mandate.

22 You may be recalling our collocation waiver process
23 perhaps, and the Commission did establish specific time frames
24 for dealing with those. It was a means to try to make sure
25 those waivers were dealt with in an expeditious manner.

1 COMMISSIONER DEASON: That's within our, our rule
2 what we adopted; is that correct?

3 MS. KEATING: That's pursuant to order, yes, sir.

4 COMMISSIONER DEASON: To an order. And what is that
5 time frame?

6 MS. KEATING: You'll have to forgive me. I want to
7 say it's a couple of months, a little less than that.

8 MS. SALAK: It's very short.

9 MS. KEATING: It's pretty short.

10 COMMISSIONER DEASON: Okay. Are there any other
11 things that come to mind other than the collocation waiver and
12 the, and arbitrations? And I know there are reports that are
13 required that obviously -- I think they're annual reports, and
14 so obviously they have to be filed.

15 MS. KEATING: Right.

16 COMMISSIONER JABER: What about area code deadlines?
17 Are there deadlines associated with numbering once certain
18 requests come in? NANPA, think about what NANPA requires us to
19 do. Or I don't know, are there things that NANPA requires us
20 to do within a certain time frame?

21 MS. SALAK: Just -- I'm sorry.

22 MS. KEATING: Okay.

23 MS. SALAK: Just on a going-forward basis, mentioning
24 some of the behind-the-scenes stuff, the code denials,
25 administratively we have a limited amount of time to do those.

1 We also have a limited amount of time on -- that are time set
2 for the reclamations, and then when the -- there are guidelines
3 for the area code processing, yes.

4 COMMISSIONER BRADLEY: So --

5 MS. SALAK: Just to mention that, you know, as when
6 tariffs are filed with us, they do become effective upon a
7 certain date. After they're filed for the ILECs, you know, we
8 have 30 days for basic and 15 for the nonbasic, I believe it
9 is.

10 CHAIRMAN BAEZ: Commissioner Bradley, you had a
11 question?

12 COMMISSIONER BRADLEY: Yeah. And so basically it
13 sounds to me that what staff is saying is that this Commission
14 does not have to get involved in arbitration interconnection
15 agreements -- I mean, in arbitrating interconnection
16 agreements; is that right? They could possibly go to -- be
17 seen as contract disputes and, as a result, go to the court
18 system.

19 MS. KEATING: They would go to the FCC actually.

20 COMMISSIONER BRADLEY: The FCC?

21 MS. KEATING: An initial arbitration.

22 COMMISSIONER BRADLEY: Okay. What about subsequent
23 disagreements and amendments of subsequent arbitrations?

24 MS. KEATING: A complaint under an interconnection
25 agreement?

1 COMMISSIONER BRADLEY: Yeah.

2 MS. KEATING: There is state law that provides that
3 the Commission has authority to resolve disputes over
4 interconnection agreements. However, if I recall the language
5 correctly, it doesn't require the Commission to resolve
6 disputes over interconnection agreements. So I think the
7 answer to your question is that the Commission -- that those
8 could go to a court.

9 COMMISSIONER BRADLEY: Okay. So the language is
10 permissive. Okay.

11 CHAIRMAN BAEZ: Commissioner Bradley, I just wanted
12 to interject, if you don't have anymore questions, going back
13 to the 135 day and if the Commission fails to act under the
14 federal act, the parties can go to the FCC. And, and maybe
15 this is something I should already know, but does the FCC have
16 the same kind of statutory time limits? For instance, the
17 process end to end, I think you mentioned, was nine months.
18 Does that, does that 9-month, or I think we boiled it down to
19 110 to 135 days, to your knowledge does the FCC have 110 to 135
20 days to act on an interconnection arbitration?

21 MS. KEATING: Just from having seen the time frames
22 that it's taken them to process some other arbitrations, I
23 don't think in practicality that 9-month time frame has
24 applied.

25 CHAIRMAN BAEZ: Okay.

1 MS. SALAK: Commissioners -- I'm sorry.

2 COMMISSIONER BRADLEY: So, so is -- so are you saying
3 then that the time frame might be a lot more excessive as
4 compared to a time frame that exists when we process or get
5 involved in these agreements, disagreements?

6 MS. KEATING: I think in all likelihood, and I think
7 the time frames in the Act are directed primarily at states
8 processing them. But just from the few that I know or the one,
9 I guess, that's gone to the FCC, it took substantially longer.

10 COMMISSIONER JABER: Are you referring to the
11 Virginia arbitration?

12 MS. KEATING: Yes, ma'am.

13 COMMISSIONER JABER: Is that done? I'll save that
14 for the industry. I'm sorry.

15 MS. KEATING: That's a really good question.

16 CHAIRMAN BAEZ: There's some snickering from the
17 crowd.

18 And one, one more question that just occurred to me.
19 Is there any -- and I think you may have answered this. The
20 dealing -- when an arbitration is filed, there is no mandate
21 for this Commission. There are obvious time lines, but that
22 really -- that refers more to -- how do I ask this question?
23 Do we have to entertain an arbitration? I mean, even though we
24 have all these, you know, 130 days and 270 days, I mean, is it,
25 is it, is it our absolute responsibility? And by that I

1 mean -- I think you referred to some lapse of time where, where
2 it would lapse again to the FCC's open-ended, seemingly
3 open-ended process. Is there some, is there some mandate or is
4 there some absolute obligation incumbent upon us to entertain
5 arbitrations?

6 MS. KEATING: To entertain them at all or to --

7 CHAIRMAN BAEZ: To entertain them at all.

8 MS. KEATING: To entertain them at all. I think
9 under the federal law for those arbitrations that are filed
10 under the federal act, no.

11 CHAIRMAN BAEZ: So in order, in order, in order for a
12 true mandate for us to entertain interconnection arbitrations,
13 they would have to be filed under state law or is that not --
14 is that essentially the case?

15 MS. KEATING: That's my opinion, yes, sir.

16 CHAIRMAN BAEZ: That's your opinion.

17 MS. SALAK: Commissioners, I just feel compelled to
18 mention that although we have those time constraints, there are
19 instances where we have, either at the request of the parties,
20 agreement among the parties or to accommodate the Commission
21 calendar, we have extended our time shortly beyond the nine
22 months. But it is a high priority to get them done, and we are
23 certainly much quicker than the FCC in that situation.

24 CHAIRMAN BAEZ: And I think, I think getting them
25 done within the time limits is an -- should -- is a priority on

1 everybody's part. I'm not, I'm not concerned. And I think you
2 raise an interesting point. I mean, what -- essentially my
3 point is what's the penalty on us for doing these things so
4 quickly? And I think the inference, the inference necessarily
5 is, I think, if I'm picking up on Commissioner Deason's point,
6 is, you know, we're cranking these out. We're actually burning
7 a lot of, you know, agency fuel, if you will, to try and get
8 these things done. And it is, it is a much more expensive and
9 costly proposition for us as an agency operationally to, to be
10 working within these time frames.

11 MS. SALAK: Yes, sir.

12 CHAIRMAN BAEZ: When I think essentially, and this
13 goes to my point, essentially there is no -- you know, that
14 270 days just -- it doesn't mean anything, does it, except, of
15 course, as a matter of pride and certainly as a business matter
16 for those that come before us, that are filing these?

17 MS. SALAK: Yes, sir.

18 CHAIRMAN BAEZ: You know, it's in their best
19 financial interest to get these things done or have, have us do
20 them in a certain amount of time. But essentially they're
21 meaningless time frames before our priority on doing them on
22 time.

23 MS. SALAK: Yes, sir.

24 CHAIRMAN BAEZ: Okay. Commissioner Bradley.

25 COMMISSIONER BRADLEY: Yes. I think we've had a good

1 discussion here as it relates to this particular issue and the
2 two areas -- well, within two areas, that is. That is the area
3 of effort and effectiveness. As it relates to efficiency, and
4 I'm thinking now about the impact upon the general body of
5 ratepayers, is it more or less efficient to have the FCC
6 resolve a dispute that, that might exist as the result of, of
7 an interconnection agreement, is it more efficient as compared
8 to the judicial system? And then as -- the last part of the
9 question is what is, what is the cost -- what, what would be a
10 comparison between the cost of having the FCC deal with a
11 disagreement, the court system and this agency? Is that clear?

12 MS. SALAK: Yes, sir. I'll start and take a stab at
13 it.

14 COMMISSIONER BRADLEY: And what is the impact upon
15 the general body of ratepayers in, in each scenario? Is it
16 less expensive for the FCC, less expensive for the court system
17 to get involved or for this agency to get involved?

18 MS. SALAK: I believe that there are probably two
19 different types of costs we need to look at. One would be the
20 effect on the market in the specific companies if they don't
21 have a decision for a much longer period of time, which I think
22 would occur under either going to the courts or going to the
23 FCC. I think that we have a staff that is capable of rendering
24 very technical positions in a much shorter amount of time.
25 That's my personal bias, of course.

1 I believe that there are financial impacts on the
2 market if they see uncertainty and there aren't decisions that
3 are made in a quick manner, and I think that we're able to
4 provide those, those decisions in a much more efficient and
5 much more -- I hate to say the same because -- but set policies
6 that, that are, and implement those policies easier if, if we
7 are the ones that are making the decisions.

8 So I think personally that the cost would be less,
9 although we have not done a study of that. I believe that
10 given the time period and the intangibles, I believe it's much
11 less expensive for the companies to come here. But I'm sure
12 the companies will respond to your question also.

13 CHAIRMAN BAEZ: Okay. Commissioners, if there's no
14 questions, I know that Mr. Wahlen and some of the other --

15 COMMISSIONER DEASON: Can we take a quick break?

16 CHAIRMAN BAEZ: Absolutely. Why don't we break for
17 ten minutes?

18 COMMISSIONER DEASON: Five or ten.

19 CHAIRMAN BAEZ: Ten minutes. We'll be back with the
20 company representatives.

21 (Recess taken.)

22 CHAIRMAN BAEZ: Commissioners, I think we were at the
23 point where we were going to hear some presentations from some
24 of the industry participants. And starting, starting from my
25 left, I know, Ms. White, I see you there. Are you -- do you

1 have a presentation?

2 MR. WAHLEN: I am first in the barrel, Commissioner.

3 CHAIRMAN BAEZ: I'm, I'm sorry?

4 MR. WAHLEN: And glad to be here. I'm Jeff Wahlen of
5 the Ausley & McMullen Law Firm, and I have been -- I'm general
6 counsel of the Florida Telecommunications --

7 MS. WHITE: Do you want your blindfold now or later?

8 MR. WAHLEN: No. Just a cigarette when it's over.
9 General counsel of the FTIA, and I am here on behalf of the
10 association. We have 18 members who are in the
11 telecommunications industry. All of -- we have members in all
12 of the segments of the industry, and we very much appreciate
13 the opportunity to be here.

14 We have filed comments with Ms. Moore. They are in
15 your packet. And I will tell you that we spent a considerable
16 amount of time on those comments. Because of the diverse
17 interests in the telecommunications industry, virtually every
18 word in that letter was poured over very carefully, and there
19 are a lot of people here supervising me to make sure that I
20 don't say anything that's inappropriate. So if you see
21 spitballs coming over from the back, that's a sign that I'm
22 going to need a break.

23 COMMISSIONER JABER: As long as they stop with you,
24 we're fine.

25 MR. WAHLEN: Well, they may stop with me. They may

1 all end up right here is what I'm kind of thinking.

2 We appreciate the willingness of the Commission to
3 drill into this subject. This is a very difficult subject.
4 We've had very good discussions with the staff, and I think we
5 look forward to providing you some input. I can tell you that
6 we came here to listen as well and we have already heard a lot
7 this morning, and we will all be taking that back to our
8 various companies as this discussion continues.

9 I'll tell you that this is not something that we
10 relish, this is not something we enjoy. This is a very
11 difficult subject. As I indicated in our first staff workshop,
12 the only person that I know that would really like to come in
13 and comment on the Public Service Commission's request for a
14 rate increase would be my father, who was a regulatory manager
15 at Centel for a long time and had the Commission comment on his
16 request for rate increases. But he's not available and I'm
17 very thankful for that.

18 Having said that, what you see depends on what you --
19 where you sit. And what we see is a \$4.5, \$4.8 million cost
20 increase that's going to be -- you know, has been proposed at
21 least conceptually to be borne by the telecommunications
22 companies in the state of Florida. That is a significant
23 increase and it is one which largely the companies will have a
24 hard time recovering. The days of just automatically passing
25 on a regulatory assessment fee increase are over for

1 telecommunication companies, and so that option really isn't
2 available to us now.

3 This, this proposal comes to the industry at a time
4 when we have a little bit of trouble reconciling this with
5 what's going on on a broader scope. If, if we look -- when we
6 look around state government, we've seen an era of no new
7 taxes, no new fees throughout state government, and for us to
8 now see a proposal of this magnitude, we have a hard time
9 reconciling that from 10,000 feet. Of course, we've seen the
10 detail and we understand how we got here. But, you know, the
11 management of our companies look around at what's going on in
12 state government generally, and then they see a fee increase
13 coming out of the Public Service Commission, they're asking
14 what's going on.

15 It also comes against a backdrop of significant
16 changes in the telecommunications industry over the last eight
17 to ten years. I think every single company operating in
18 Florida has found itself in a situation where its projected
19 revenues are not sufficient to cover its, its costs. And by
20 and large, with limited exceptions, the business response to
21 that has been to reduce expenses. And so all of the
22 telecommunication companies over the last eight to ten years
23 have gone through fairly dramatic cost reductions. That
24 generally means headcount reductions. And as a result of those
25 activities, there are a lot of people who are doing a lot more

1 with less or the same with less. And so, you know, with that
2 perspective, you know, that's the perspective the
3 telecommunications industry brings to this table. And we
4 understand that government and telephone companies are
5 different, but that is the perspective that we, we have when we
6 look at something like this.

7 I guess the third point I'd like to make is that what
8 is even more concerning to us is that if you look at the
9 revenues on which the RAF is assessed, they're going down.
10 Mr. Mailhot provided a very good schedule showing you
11 telecommunications revenues and expenses, and he's detailed how
12 they have been going down and pointed out how between 2002, or
13 in 2002 there was a substantial one-time decrease. But if you
14 look beyond that, you can see that for 2003/2004, 2004/2005 and
15 2005/2006, the amount of revenue available, you know, on which
16 you would assess the RAF is going down, and that is a function
17 of a lot of things that are going on in the telecommunications
18 industry. We probably don't need to talk about all of them.

19 But as we see those revenues go down and the RAF
20 percentage go up, we start to see, you know, the traditional
21 death spiral. You know the revenues are going down and the
22 rate goes up and we just keep on having this issue.

23 So we recognize that there's a revenue requirement
24 component to this and there's also a rate design component to
25 this. And we are hoping that, you know, as between increasing

1 the revenue or decreasing the costs, the first place the
2 telephone companies have looked internally is to decrease the
3 costs, and we hope that the Commission can continue to do that.
4 We acknowledge that the Commission has done a lot of innovative
5 things, a lot of effective things that have made the regulatory
6 process more efficient. We're hopeful that that process can
7 continue. This isn't about whether, you know, particular
8 people or particular functions should go. That isn't what we
9 came to do. That isn't something that we would particularly
10 enjoy talking about. But our message is that we would like to
11 make sure that the regulatory process working together is as
12 efficient as it can be, as cost-effective as it can be, and
13 that we keep rate increases down to a bare minimum. **And I**
14 think at least the Telecommunications Industry Association is
15 willing to look at some rate design issues about how you
16 recover the revenue requirement as we move forward.

17 Let's see. I think that concludes my opening
18 remarks.

19 CHAIRMAN BAEZ: Thank you, Mr. Wahlen. Commissioner
20 Bradley, you had a, a question or --

21 COMMISSIONER BRADLEY: Yes. And you did an excellent
22 job of dealing with the issues of effort, effectiveness and
23 efficiency.

24 My one question I have though is -- I'm looking at
25 your, your response to some of the general comments, and one

1 response is that the FTIA recommends that the Commission
2 consider increasing the minimum annual RAF amount. Is that
3 still your opinion?

4 MR. WAHLEN: Yes, sir.

5 COMMISSIONER BRADLEY: And I think I heard you say
6 though, but give consideration to some, dealing with some
7 efficiency of effort and doing a cost benefit analysis in order
8 to determine where cuts or reorganization could occur in order
9 to create a more effective and efficient process.

10 MR. WAHLEN: That's correct.

11 COMMISSIONER BRADLEY: Okay.

12 CHAIRMAN BAEZ: Commissioner Jaber.

13 COMMISSIONER JABER: Mr. Chairman, just a series of
14 questions. And, Mr. Wahlen, like Commissioner Bradley, I
15 thought your presentation was very good generally. I want to
16 get into some of the details that you've put in the response,
17 and my first general question goes to mediation. I know that
18 throughout the entire presentation there was just this
19 undertone of, you know, we will endeavor to pursue negotiations
20 and mediation.

21 My question to the industry overall is what can we do
22 to provide additional incentive to encourage companies to take
23 advantage of the PSC mediation program or private mediation to
24 the degree -- I love incentive-based regulation as it relates
25 to water and the electric industry. I think it works. I think

1 we've seen example after example where parties mediating
2 results in a solution that works from a business standpoint,
3 from a timing standpoint. And in telecommunications you can
4 call it incentive-based deregulation; I don't really care. But
5 from our perspective, is there something we can do to provide
6 additional incentive to make mediation more effective and
7 encourage widespread use of that as an alternative to
8 litigation? You may not have the answer to that today, but I
9 would look forward to having you all think through that some
10 more.

11 MR. WAHLEN: Well, you're correct, I don't have the
12 answer to that. And I guess the only other remark I'll make is
13 that we heard a lot from the Commissioners this morning, and I
14 think we can sort of get a sense of, of some of the questions
15 you have. You will likely ask questions of me today that I
16 don't have the answer to because what we generally do is sit
17 down as an association, and in order for us to take a position
18 before the Public Service Commission, we require that it be a
19 unanimous position. And so if you'll --

20 COMMISSIONER JABER: It has to be unanimous?

21 MR. WAHLEN: Yes, ma'am.

22 COMMISSIONER JABER: Gosh, we don't even require
23 that.

24 MR. WAHLEN: Well, it's democracy in action.

25 COMMISSIONER JABER: Yeah. We wouldn't get --

1 COMMISSIONER BRADLEY: Unanimous.

2 COMMISSIONER JABER: I know.

3 CHAIRMAN BAEZ: Hyperdemocracy, if you ask me.

4 COMMISSIONER JABER: Maybe the Chairman would like
5 that from time to time.

6 MR. WAHLEN: That's to say not that we won't have an
7 answer, but there may be some questions that you ask today that
8 different industry segments, different companies might have
9 differing positions on. And in order for me to continue to be
10 employed as their lawyer, I'm going to just have to say I don't
11 know, and we'll go see if we can reach an agreement on, on
12 those things.

13 COMMISSIONER JABER: Okay. And that's an open
14 question. But to give you an example, like the warm transfer
15 program I used as an example earlier, that is an effective
16 program. And the incentive, we found, was that companies --
17 consumer complaints didn't rise to the level of complaints or
18 inquiries if service was restored within a certain amount of
19 time. You know, that's an example. I don't really know what
20 the answer to my question is either. But I'm suggesting to you
21 that it's an open-ended question, and I'm looking forward to a
22 lot of feedback.

23 MR. WAHLEN: We'll look into that. My experience in
24 litigation generally has been that mediation is always
25 successful when the other side is more reasonable, at least

1 that's what people think, and there may be some of that here.
2 But we will take the question back and, and see if we can
3 answer it.

4 COMMISSIONER JABER: Okay. Okay.

5 CHAIRMAN BAEZ: Thank you.

6 COMMISSIONER JABER: You know he was pointing to our
7 side. Did you see that? Yeah.

8 CHAIRMAN BAEZ: I saw that.

9 MR. WAHLEN: That was a generic gesture.

10 COMMISSIONER JABER: Yes. I'm going to ignore that.
11 Related to your comments specifically, service
12 quality evaluations, you say staff should refrain from
13 conducting routine yearly service evaluations. How extensive
14 are those, Mr. Wahlen? I'm just not familiar with what it is
15 our staff does.

16 MR. WAHLEN: Well, it might be a better question for
17 the staff, but I'll just tell you what the perception is and
18 what I've heard. What I've heard is that from time to time
19 there are these evaluations that are done on a soup-to-nuts
20 basis; we're going to look at everything. And when your
21 company is selected for one of those, it's a very significant
22 event.

23 And I think the, the notion here is not to eliminate
24 the evaluations, but for the scope of the evaluation to be
25 driven by complaints or some, something besides let's just go

1 and check all the boxes. You know, if there's a problem in a
2 particular area, let's go do the evaluation in that area.
3 Let's not just look at everything each time because it's on our
4 checklist.

5 COMMISSIONER JABER: Is it your understanding, and I
6 know you can't speak to this from personal experience, but is
7 it your understanding that perhaps these are not as focused as
8 they could be?

9 MR. WAHLEN: Yes.

10 COMMISSIONER JABER: Okay. In that regard,
11 frankly -- I think one of the best things we can take away from
12 today are the three Es that Commissioner Bradley brought up. I
13 think that if we use those three Es to serve as a model for
14 whatever comes out of this proceeding, I think that we're --
15 it's a home run. And in that regard, using the three Es and
16 your bullet related to service quality evaluations, is there
17 room to discuss reimbursing the agency for those focused
18 evaluations if they arise out of a consumer complaint? In
19 other words, if it's a legitimate consumer, frankly, even a
20 competitive issue, if at the end of the day it was a legitimate
21 evaluation and some finding was made, would it -- is there some
22 consideration to be given to compensating or reimbursing the
23 agency for that cost?

24 MR. WAHLEN: I think the short answer is that we
25 haven't ruled out anything. We might quickly once we thought

1 about it, but we'll certainly be glad to take that back and
2 evaluate it and consider it.

3 COMMISSIONER JABER: I would hope you all not rule
4 things out quickly.

5 MR. WAHLEN: I don't think we will.

6 COMMISSIONER JABER: Okay. Increase fees for
7 certification. I notice you don't suggest any specific fees
8 for arbitrations and complaints. And I, I know Mr. Long is
9 going to speak later. I understand the concern that segment of
10 the industry has on arbitrations.

11 Complaints, I think, primarily come from the segment
12 of the industry you represent, and you are not suggesting a
13 specific application fee that should accompany complaints; is
14 that correct?

15 MR. WAHLEN: We haven't, we haven't specified a
16 number. But let me share with you I think where the FTIA is.

17 If you go to circuit court in Florida, there is a
18 filing fee. If you're getting a divorce, if it's a probate, if
19 it's civil litigation, there is a modest filing fee, you know.

20 COMMISSIONER JABER: Is there a filing fee at the
21 FCC?

22 MS. WHITE: I think so.

23 MR. WAHLEN: I think so, but I don't know. For
24 everything that you file there is some modest fee, \$200, \$250.
25 I think the FTIA member companies were comfortable going down

1 the road in that direction to see how that might work. You
2 know, we haven't done the math to figure out if it makes sense,
3 but that would be an area that we would be -- suggest for
4 exploration.

5 COMMISSIONER JABER: Okay.

6 MR. WAHLEN: I think there is a difference of opinion
7 among the industry about whether the full cost of the
8 proceeding, the staff time, the Commissioners' time, the court
9 reporters, all that stuff, should be borne by the, the
10 participants, in some measure because, because of the nature of
11 this process, some of the decisions that are made in one
12 arbitration have a benefit to everybody out there who's
13 watching. So I'm not sure -- well, I am sure that our
14 association has not reached agreement on that piece, which I'll
15 call full cost recovery. But I think within the industry it
16 was unanimous that the Commission could explore the filing fee
17 approach to see what sort of revenue that would generate.

18 COMMISSIONER JABER: Okay. To offset some of the
19 costs.

20 MR. WAHLEN: Yes.

21 COMMISSIONER JABER: Mr. Wahlen, I know the FCC has
22 filing fees because very recently, and I don't have a copy of
23 it with me, but very recently I saw a notice of the FCC
24 initiating a proceeding to increase those filing fees. I don't
25 know -- I send this out as a request to you all and to our own

1 staff. I'd be very interested in finding what the various FCC
2 filing fees are.

3 As it relates to the page regarding other activities,
4 that's Page 3 of your handout, Mr. Wahlen.

5 MR. WAHLEN: Yes.

6 COMMISSIONER JABER: Unnecessary reporting of safety
7 variances by PSC field review staff that were previously
8 reported by the power company and handled. I just -- I have to
9 plead ignorance. I don't know what that is. Could you
10 elaborate?

11 MS. WHITE: Actually I think that, that came from
12 BellSouth.

13 COMMISSIONER JABER: Okay.

14 MS. WHITE: What we have is sometimes we have a lot
15 of joint use --

16 COMMISSIONER JABER: Facilities.

17 MS. WHITE: -- facilities with the power company.

18 COMMISSIONER JABER: I'm sorry, Commissioner Bradley.
19 It's Page 3 under D, Other Activities. If you look down the
20 third bullet point.

21 COMMISSIONER BRADLEY: Unnecessary?

22 COMMISSIONER JABER: Yes. Uh-huh.

23 MS. WHITE: So what happens or what had been
24 happening sometimes is that when the power company sees
25 something that's telephone related, they will call us, we'll

1 get people on it. But then I think they also report it to one
2 of your field staff, then he calls somebody else. So we've got
3 like two teams working on the same thing, and sometimes they
4 don't know it until they meet in the middle. And that just --
5 it's part of the efficiencies.

6 COMMISSIONER JABER: Okay. But the communication
7 issues, I wouldn't be surprised if there's a lot of that going
8 on.

9 MS. WHITE: Right.

10 COMMISSIONER JABER: How can that be addressed?

11 MS. WHITE: Well, I think, and I may have to get
12 Mr. Tubaugh up here, my network expert. But I think if, if --
13 maybe it's just as simple as that when it's done, we need to
14 report to that field person that it's been fixed or that the
15 field person, staff field person knows that if -- that when he
16 gets the report, the power company has reported it to us and we
17 are working on it. And then he just -- you know, if he doesn't
18 get a response from us saying it's been fixed or here's the
19 issue or here's the problem, then he knows to follow up. Maybe
20 it's as simple as that.

21 COMMISSIONER JABER: Is there a way to use technology
22 to address this concern where there would be -- similar to,
23 again, the consumer affairs interaction with the companies, the
24 warm transfer program or the E-mail transfer, can you all get
25 notified?

1 MS. WHITE: E-mail, possible. But usually these are
2 people that are out in the field just getting on the phone,
3 hey, we've got this issue at this address, you need to do
4 something about it. So it's not really being dealt with, I
5 think, by people who are in offices with access to e-mails and
6 all that. But those are -- that's something that could
7 definitely be looked into.

8 COMMISSIONER JABER: Okay. The one right before it,
9 opening an audit on the substance of the issues in an open
10 docket while there might be an open, opened docket and
11 procedural discovery going on. I guess that that's because our
12 audit staff has to be independent of our analytical substantive
13 staff.

14 MS. SALAK: Correct.

15 COMMISSIONER JABER: Okay. Do you think that
16 requires a statutory change? I mean, I appreciate what you're
17 saying. I know there are examples of this. I know it just
18 from the last three years, I know that there are examples. But
19 this is happening because our audit team has to be independent
20 of our technical industry team.

21 MS. WHITE: And, and I agree with you on that. But I
22 guess ultimately it's the Commission that's saying whether you
23 need an audit in an open docket. I mean, there's an open
24 docket, and then the Commission is saying we think we also need
25 to do an audit.

1 COMMISSIONER JABER: But in all fairness, a couple of
2 those audits have been referrals from the Attorney General's
3 Office; right?

4 MS. WHITE: Well, I guess not the one I was thinking
5 of, so maybe we're thinking about a couple of different things,
6 out.

7 COMMISSIONER JABER: I think that there might be
8 circumstances where audits or issues might actually come from
9 other state agencies.

10 MS. WHITE: And if that's the case, that's the case.
11 I think I was -- for that example we were really thinking more
12 of one where there had been no referral. It was strictly the
13 Commission decided this, you know, they wanted to do an audit
14 or an audit needed to be done on this issue at the same time
15 that an open docket was going on. So it was not a referral.
16 So I, I understand your point about the referral from agencies,
17 and I would agree that that, that would be an issue that would
18 be problematic.

19 COMMISSIONER JABER: Okay. Now understand, I don't
20 think the Commission necessarily has a concern related to the
21 independence of our staff in putting a firewall among our
22 staff. It seems to me that it's the companies or in some cases
23 the consumers that would be concerned about the independence.

24 Saying that, if you all don't care that they need to
25 be two separate proceedings, is there something short of having

1 two separate proceedings you would recommend? I mean, it seems
2 to me you all would be the ones complaining that you've got a
3 team working in a docketed matter that is also the team
4 auditing the company. So --

5 MS. WHITE: Well, and it wasn't more that -- I don't
6 think the complaint wasn't that it was the same team. It was
7 more, it was more like why are we doing the same work in two
8 different areas? Why are -- why -- it was like redundant. It
9 was more redundancy than, than you've got two sets of
10 Commission people that maybe shouldn't be working together. It
11 wasn't really that. It was more of a redundancy -- why, why do
12 two sets need to be doing the same thing, looking at the same
13 thing?

14 COMMISSIONER JABER: Okay. Ms. Salak.

15 MS. SALAK: If I could respond to this just briefly.
16 In that particular docket that she's referring to, it will be
17 going to hearing later, so I hate to talk too much about it.
18 But staff made the decision to use an auditor in that case
19 because we thought it could be handled more efficiently with an
20 auditor in the field to work out everything that was happening,
21 with the understanding, of course, that we would still be
22 processing the docket, which would require if we were to enter
23 the testimony -- the testimony of the auditor would have to be
24 admitted to do it. In addition, we were doing discovery. **And**
25 I will tell you that we have taken -- because Bell had

1 mentioned that, you know, there might be some overlap between
2 the discovery and the audit request, we have been working with
3 Bell to make sure that there's no overlap that exists or, if
4 there is, that it's minimal and that they can just refer to,
5 oh, we asked for that in the audit. So we believe we've been
6 trying to work with Bell to resolve this issue.

7 COMMISSIONER JABER: Okay. I think this is worthy of
8 working further on. And for whatever it's worth to you, Ms.
9 Salak, you may want to talk to Mr. Willis in the water area
10 because we have that issue probably more often than not in
11 water than we do in telephone. We have the separate audit
12 team, but while maintaining independence I think there is some
13 level of communication between the accounting and ratemaking
14 group with the audit team. And actually Chuck may, Chuck Hill
15 may be able to help you in that regard. But it seems to me
16 that it works well in water, and maybe we can copy some of that
17 here.

18 MS. SALAK: Yes. And we have been in communication
19 with the auditors trying to minimize anything, duplication for
20 the company.

21 COMMISSIONER JABER: Okay. And then, Mr. Wahlen, my,
22 my final question to you relates to some of the things I
23 brought up early on, the warm transfer program, the Internet
24 activity, recognizing that those are effective programs this
25 agency has instituted on its own for the benefit of the

1 consumer, for the benefit of agency resources and, frankly, I
2 think you all have reaped some of that benefit. How might you
3 compensate this agency for carrying those programs going
4 forward?

5 MR. WAHLEN: I'm making a note.

6 COMMISSIONER JABER: Thank you, Mr. Chair.

7 CHAIRMAN BAEZ: Commissioner Bradley.

8 COMMISSIONER BRADLEY: Yes. FTIA had the benefit of,
9 of listening to the discussion that occurred between the
10 Commissioners and, and, and various staff. And one of the, one
11 of the issues that we discussed was the percent of the
12 increase, and I think that it was stated that the percent of
13 the increase would be 53 percent. Is -- do you all agree with
14 that?

15 MR. WAHLEN: I've not done the math but, subject to
16 check, I would agree with that.

17 COMMISSIONER BRADLEY: Okay. And this is just in
18 your opinion, and you may not be able to answer this, but if
19 you had to break that out by actual increase and identify what
20 percentage of that increase deals with inflationary costs, have
21 you all given any consideration to that or can you -- is that a
22 question you can answer?

23 MR. WAHLEN: We have not done that analysis. We
24 could do that analysis, but we have not done that analysis. I
25 understand your question.

1 COMMISSIONER BRADLEY: Okay. And let me say this.
2 I -- most certainly I agree with your position that this agency
3 needs to take a look at redundancy and obsolescence, and that's
4 a process that, that should naturally occur within, with any,
5 within any agency that is seeking to remain effective in its
6 effort and also efficient in its effort. So I agree with that.

7 Also, let me commend you for, for taking the position
8 that it makes good sense to, in fact, increase the, the minimum
9 **RAF amount**. And I guess what we're confronted with here right
10 now is just dealing with the redundancies that we can identify
11 and the obsolescence that exists within the process in order to
12 create more effectiveness and efficiency as a result of the
13 effort.

14 So the question is how do we get there? And I know
15 you have a daunting task since you, you represent -- and I
16 think the public needs to really understand who you do
17 represent, and that is that you represent member companies --
18 well, your member companies include ILECs, ALECs, CLECs, well,
19 long distance companies, wireless providers, some of whom are
20 subject to the regulatory assessment fee. So you represent
21 everyone in the industry. So I think the public really needs
22 to understand that you're representing everyone who has a
23 vested interest in the telecom industry. So --

24 MR. WAHLEN: Do I have the silver bullet answer? I
25 don't. But I --

1 COMMISSIONER BRADLEY: Well, and I understand that
2 And I clearly understand what you meant when you said that you
3 have to have a unanimous vote in order to take a position
4 because you do have so much diversity representation within
5 your, within your company, I mean, within your organization.
6 So the question is how do we get there?

7 MR. WAHLEN: Well, I guess other companies have some
8 presentations to make, if you'd like to hear those, but I think
9 at the end of the day we'd be interested in understanding what
10 the process would be from here. There have been some questions
11 asked. I think our hope today was that we could listen to the
12 Commission, listen to the Commission staff, our member
13 companies could hear, we could share some information and
14 perspective, and we would keep this discussion going and not
15 just, you know, throw up our hands and walk away.

16 COMMISSIONER BRADLEY: And one other question. You
17 know, we had -- well, we talked about this quite a bit or at
18 least I did, and I was trying to get a clear understanding
19 within my mind as to which entity is, is better suited to
20 address the many dynamic issues that, that, that, that exist as
21 a result of deregulation within the telecom community. I mean,
22 most certainly the FCC is, is an efficient and well-informed
23 entity. The judicial system also would be a good place in
24 order to resolve disputes. And most certainly I think that the
25 PSC is also an excellent vehicle to have in place in order to

1 resolve disputes.

2 But in your opinion, which of those three entities
3 has the least financial impact upon the general body of
4 ratepayers?

5 MR. WAHLEN: Has the least?

6 COMMISSIONER BRADLEY: As it relates to dispute
7 resolution.

8 MR. WAHLEN: Well, we haven't, we haven't talked
9 about that in particular because I don't think we looked at
10 this exercise as one where any of those entities would go away
11 or, you know, significantly change the scope of its activities.

12 The court system in my opinion, and this is just my
13 opinion, it does not represent the views of the association,
14 the court system is not a very efficient way to make, you know,
15 regulatory policy decisions. So I think the answer is that I
16 don't think we came into this expecting to have a discussion
17 about moving large functions somewhere else. I think our hope
18 would be that, that existing functions could be managed more
19 efficiently, more effectively. And the perspective we bring to
20 the table is that the telephone companies are still doing the
21 same things that they've been doing for a long time, they're
22 just doing it with fewer resources and the revenues are going
23 down. We've had to really tighten down. And we didn't come in
24 here specifically to say where things could be tightened down.
25 We were hoping that we could have a discussion about, you know,

1 ome of the functions where there's some potential for
2 fficiencies. So I don't know if I answered your question, but
3 t's about the best I can do.

4 COMMISSIONER BRADLEY: You did. You have. You
5 answered it. Thank you.

6 CHAIRMAN BAEZ: Thank you, Commissioner. At this
7 point if we can get Mr. Long's -- Ms. White?

8 MS. WHITE: It's me.

9 CHAIRMAN BAEZ: Oh, you're second now. You know, I
10 ried to give you a chance before, and then, you know.

11 MS. WHITE: Sorry. I know. I'm sorry.

12 CHAIRMAN BAEZ: Go ahead, Ms. White.

13 MS. WHITE: BellSouth is here and endorses the FTIA
14 comments, but we do want to speak separately, and the reason
15 why is very, very simple. BellSouth pays approximately
16 \$5 million a year in regulatory assessment fees in Florida.
17 This increase is going to mean an additional approximately \$2.5
18 million added on to that. So our total would be somewhere
19 between \$7.5 and \$8 million. So almost half of the increase or
20 the revenues expected from the increase would come from
21 BellSouth.

22 The bottom line of that is there are consequences.
23 That money is going to have to come from somewhere and that's
24 something that we're going to have to deal with.

25 We are not here to dispute the time and effort that

1 you put in and that the staff puts in to telecom issues. We
2 respect that time and effort, believe me. But we feel there
3 are certain questions that have to be answered, have to be
4 asked and answered. Questions like, can the Commission operate
5 more efficiently? Absolutely. Companies and commissions,
6 everybody can always operate more efficiently. This Commission
7 has already taken steps on that. The E-filing of tariffs, the
8 E-filing of certain pleadings, that's been a huge help. That's
9 been a benefit both on your side, I think, and on our side.
10 But are there other things that can be done? I'm sure. Can
11 the PSC do more with less? Yes. Everybody has to. We've had
12 to as a company.

13 I was telling Marshal that when I first took the job
14 of state general counsel seven years ago for BellSouth, I had
15 six lawyers in my office. I now have three. We've had to
16 learn to do more with less. Now somebody might say that's
17 three lawyers too many, but, but we won't get into that.

18 COMMISSIONER DEASON: Why are you looking at me, Ms.
19 White?

20 MS. WHITE: Because, because I know you and lawyers.
21 But, I mean, one of the things that concerns --

22 COMMISSIONER JABER: Ms. White. Ms. White.

23 MS. WHITE: Yes, ma'am.

24 COMMISSIONER JABER: I have to interrupt you because
25 you make very good comments, but you also have to acknowledge

1 we have been doing more with less. I vividly remember
2 Ms. Keating and Ms. Salak leaving a service hearing not too
3 long ago at 11:00 at night so they could come back to
4 Tallahassee for a 9:30 prehearing the next morning. So out of
5 respect for them, you have the luxury of three attorneys.

6 MS. WHITE: Yes. Absolutely. Everybody has been,
7 everybody has been doing more with less. But the answer is can
8 you do even more? And I guess one of the things I wanted to
9 point to on that is I look at one of the charts that the staff
10 put together, the total PSC revenues, expenses, fund balance
11 and authorized positions, and I see that it just appears that
12 you're budgeting for the number of positions. You're saying,
13 okay, we have this many authorized positions, so we require
14 this much money to, to regulate. And I think that's kind of
15 backwards. To me it's like, okay, what, what do we have to do,
16 what are the things we have to do to regulate? Okay. How many
17 people do we need to do that and then how much does it cost?
18 That's just one, one point I want to make.

19 Another question that needs to be asked is are there
20 ways to raise revenue either as an alternative to this increase
21 or as a way to lessen the increase? And I think that's where
22 we get into filing fees. I was quite -- I did some looking,
23 not as much as I should because I didn't look at the FCC, but I
24 was doing some looking at what, what it costs for applications
25 for certificates. I think for CLECs it's \$250, for pay phones

1 it's \$100, IXCs are nothing. I looked at water and wastewater,
2 and I don't know what ECU means, but for water and wastewater
3 companies to apply for a certificate, it's anywhere
4 between \$750 and \$3,000 depending on the number of ECUs. As I
5 said, I don't know what ECUs mean. And I'm not suggesting we
6 go that high.

7 COMMISSIONER DEASON: Is that ERCs perhaps?

8 MS. WHITE: No. No. ECUs -- maybe it was ERCs.

9 COMMISSIONER DEASON: ERCs, equivalent residential
10 connections. It is nice to have someone in the
11 telecommunications industry that does not understand an
12 acronym.

13 MS. WHITE: I know nothing about the water systems.

14 MR. WAHLEN: I told you we were going to learn
15 something today.

16 CHAIRMAN BAEZ: You need to have a certificate to use
17 an acronym. Okay? Let's just --

18 MS. WHITE: Well, I guess so. I guess so. Well, I
19 didn't see the definition.

20 COMMISSIONER DEASON: Maybe we could start taxing the
21 use of acronyms, and the telecommunications industry would be
22 paying a large amount.

23 CHAIRMAN BAEZ: I would like to be paid by the
24 acronym. That's, that's all I can say. Commissioner Bradley.

25 COMMISSIONER BRADLEY: And I'd like to just make a

1 comment before Ms. White goes too far away from a statement
2 that she made. You made mention of the fact that the number of
3 individuals -- and Commissioner Jaber said that we are doing
4 more with less. You said that you cut from six attorneys down
5 to three. And, you know, I made the statement earlier that by
6 all means this agency needs to look at redundancy and, and
7 obsolescence of function. And I know that we are willing to,
8 to, to work to identify obsolescence and redundancy. But what
9 if -- I mean, you know, deregulation is a very complicated
10 endeavor and it's a path that, that we're just walking down and
11 through. And, you know, as it relates to a number of people,
12 we need to be very careful because it, you know, it may take
13 ten people with ten different sets of expertise in order to,
14 to, to make an informed recommendation or it may just take five
15 people. But, you know, we need to determine if, if there's
16 redundancy or obsolescence within the number ten or if we need
17 to cut back to five because I wouldn't want to disadvantage the
18 process.

19 MS. WHITE: And I agree. I absolutely agree. I
20 guess all I'm saying is, okay, you've got here's what -- here
21 are the things we do to regulate and we know we have to
22 accomplish these things. So, therefore, how many people do we
23 need to do it? If it's 400 or 600 or 800, then that's what the
24 number is. But if it's less than the number that you're
25 authorized, then that's what it is too. And that's all I'm

1 suggesting is that you look at it that way.

2 COMMISSIONER BRADLEY: Okay. And I don't disagree
3 with that.

4 CHAIRMAN BAEZ: Ms. White, before you get off that
5 point --

6 MS. WHITE: Sure.

7 CHAIRMAN BAEZ: -- I, I, I wanted to ask you, because
8 you happen to be the one making the point at the time, there's
9 a, I guess it's the second, second or third page of those
10 telecommunications revenues and expenses. There's a line five
11 that estimates or, or has, or has the, the percent of
12 Commission time allocated to telecommunications. Are those
13 percentages disputable in your --

14 MS. WHITE: I have no idea, Chairman, because I, I, I
15 know that the Commission staff has changed the way it time
16 reports now.

17 CHAIRMAN BAEZ: Yeah.

18 MS. WHITE: And so I don't really have a good handle
19 on how many people spend time on telecommunications. So, I
20 mean, I guess one of the -- the only dispute I would have on
21 that is that to ensure that there's a way to, I guess, audit,
22 track it, make sure that if somebody says they're spending 30
23 minutes or an hour on this telecom issue, that, that somebody
24 has looked at it at some point to see on the whole is that
25 really happening. Just like we do with our -- you know, if you

1 have vendor bills and suppliers' bills. You know, look -- did
2 I really --

3 COMMISSIONER DEASON: Ms. White, there's a -- we have
4 a model that does that and it's confidential. And for you to
5 access that, there would be a fee.

6 MS. WHITE: Can I sign a protective agreement?

7 CHAIRMAN BAEZ: And we have the red folders to prove
8 it.

9 MS. WHITE: But, I mean, I guess I'm not sure. I
10 have not looked in detail at that percentage and I'm not sure
11 how, how it's realized, so I guess I'm not in a position to say
12 whether I dispute it or not dispute it.

13 CHAIRMAN BAEZ: Let me ask you this. If you took --
14 let's ask, let's ask sort of the same question a different way.
15 Would, would you, would you dispute any assertion that the
16 telecom industry has, and, and I'm talking, you know, in terms
17 of arbitrations and complaints and, and things of that nature,
18 has increased?

19 MS. WHITE: Absolutely. It's not just increased,
20 it's become different. You know, when the RAF was first put
21 out, the regulation consisted of the Commission regulated the
22 company on behalf of the consumers. I mean, tariffs that were
23 filed, you looked at it from a consumer standpoint. Rate
24 cases, depreciation cases, it was all consumer-to-company
25 issues. Now three-fourths of it or probably more are

1 company-to-company issues.

2 CHAIRMAN BAEZ: Yeah.

3 MS. WHITE: And that's completely different than when
4 the RAF went into place.

5 CHAIRMAN BAEZ: And I'm glad you make, and I'm glad
6 you make that acknowledgement. Because even, even the nature,
7 even the nature of, and I use the term "regulation" loosely
8 because we are in the telecom sector and purportedly
9 unregulated or deregulated, if you will, but I guess the nature
10 of the, of the, of the Commission's participation on these
11 issues, if you will, has changed.

12 MS. WHITE: I agree.

13 CHAIRMAN BAEZ: Do you agree, do you agree that our
14 participation is less, and I don't mean -- well, even by
15 saying, by saying it like this, we, I, I indict this
16 Commission, and it's not -- it's pejorative to this Commission,
17 and that's not my intent. But will you -- would you agree that
18 our participation on these issues is less of a proactive
19 nature? And I, I want you to understand how I mean that, that
20 we have, we have -- that the Commission has less to do with the
21 creation of dockets, for instance, I mean, as a bottom line
22 figure.

23 MS. WHITE: Yes, I will agree with that. And in
24 fact, one of the things I was thinking of, and this is not an
25 FTIA position, so I have to distance myself with this, is

1 because it has turned to company to company, maybe you need to,
2 you know, increase or do different RAFs for different
3 subindustries of the telecom group. Like you have a different
4 RAF for investor electric and gas-owned utilities than you do
5 for municipals. Maybe you need to do the same thing for the
6 telecommunication subgroups, and here's why. Because I
7 asked -- I pulled for like the last five years telecom dockets,
8 and all I was looking for was how many did BellSouth initiate,
9 not ILEC initiated, but BellSouth initiated, how many did the
10 Commission initiate and then how many were CLEC initiated? So,
11 I mean, I wasn't looking at all telecom dockets, but just those
12 categories. And for the last five years the total ranges
13 somewhere between 40 and 45 total dockets just of those three
14 categories. About 15 to 18 are initiated by BellSouth, about
15 the same number by CLECs and about anywhere from two to ten by
16 the Commission.

17 So, yes, I mean, to me that answers your question.
18 It's the CLECs and the ILECs that are initiating the
19 procedures. The Commission is doing it, but I think they're
20 doing -- they're not doing as much as the BST, I mean, as the
21 ILECs and the CLECs are doing.

22 CHAIRMAN BAEZ: Well, my point, my point being is
23 that, and maybe it's too simple a way of putting it, but, but
24 that, you know, our involvement, the Commission's involvement
25 is, is in much more -- it's as the receiver, if you will, of,

1 of the action.

2 MS. WHITE: Sure. Sure.

3 CHAIRMAN BAEZ: And that it -- and that the workload,
4 whether we agree with an increasing percentage or not, and I
5 will agree with you in principle, you can always do things more
6 effectively. I think you reach a point, as you know, you reach
7 a point of diminishing efficiencies, diminishing returns in
8 every instance.

9 One point on that. If you agree, if you agree that,
10 that it is industry, that the workload is industry driven, all
11 right, that at least arguably the Commission is doing less,
12 less, there's less genesis of, of work on the part of the
13 Commission, do you see the connection between our ability to
14 look at process and look at staffing and look at ways of
15 running a little leaner is diminished, that ability is
16 diminished because we are in the posture of being reactive, of
17 being receptive, of having to be prepared for whatever the
18 industry creates?

19 MS. WHITE: I'm not sure I'd agree with that because,
20 I mean, you know, yes, it's, it's -- and I guess it's not every
21 department of the Commission that's like that that is more
22 pro -- I mean, that is less proactive, I guess, because you
23 still have your audit groups and your customer complaint
24 groups, and I think they're a little bit different.

25 But I, I, I think that, that there are -- even though

1 that's true, even though it is more company driven, I think
2 there are always efficiencies that can be gained.

3 CHAIRMAN BAEZ: I'm not arguing --

4 MS. WHITE: Now maybe they're not as big as some
5 might think.

6 CHAIRMAN BAEZ: My question, my question was general
7 and in principle. I am not disagreeing with you. I don't
8 think anyone in this room would disagree that, that obviously
9 there's always time, there's always room for improvement and
10 ways to do things better and ways to do things smarter. But,
11 but I -- my, my point is merely that there has to be an
12 acknowledgment at least that our capacity or our capabilities
13 to do that in an absolute sense are hindered merely because of
14 the realities now. I'm not even proposing that that, that that
15 dynamic change. It can't.

16 MS. WHITE: And I think you're right. I think, I
17 think that's probably true to some extent. How much of an
18 extent, I don't, I don't pretend to know.

19 CHAIRMAN BAEZ: Do you --

20 MS. WHITE: But I think to some extent that's
21 correct.

22 CHAIRMAN BAEZ: Fair enough.

23 MR. WAHLEN: Could I make an observation about these
24 percentages?

25 CHAIRMAN BAEZ: Mr. Wahlen.

1 MR. WAHLEN: Everyone has an intuitive sense about
2 whether people are busy or not and, you know, is it telephone,
3 is it electric or whatever. But one of the things about these
4 percentages is this is percent of time allocated to
5 telecommunications relative to the total, and that can be
6 affected by two things. One is how much absolute
7 telecommunications work is there? But also a decrease in the
8 amount of electric and water and sewer and others would cause
9 the telecommunications to increase. So it's kind of hard to
10 look at these numbers and just say that means there's been an
11 absolute increase in the amount of telecommunications work.
12 There may be analyses that show that. We can't tell by looking
13 at it whether it's because we're actually a lot busier or is it
14 just maybe that there haven't been as many electric rate cases
15 or whatever.

16 You know, looking back to the '80s and '90s when we
17 were in a rate of return mode, there was a lot of activity
18 there and, you know, some of it was telephone companies coming
19 in for a rate increase. A lot of it was, you know, Public
20 Counsel coming in for an overearning situation. So over a
21 broader history it's kind of hard to say, you know, are we
22 busier now than we were then? We can say, however, that what
23 we're busier on now is a lot different than what we were busier
24 on then.

25 CHAIRMAN BAEZ: Commissioner Deason.

1 COMMISSIONER DEASON: And I don't disagree with what
2 you're saying. But I think you would have to acknowledge that
3 back in the good old days of rate of return regulation and this
4 Commission was in the mode of either responding to rate
5 increases or initiating overearnings cases and bringing
6 companies in for rate increases because of that, and both have
7 happened in the past, I think you would have to agree to some
8 extent processing a rate case is processing a rate case and
9 there's not as much industry specialization needed back in
10 those good old days. What we're doing now in
11 telecommunications, in my view, is very specialized, and you've
12 got to have a team of individuals who are schooled both in the
13 terminology and the, the technology, which is changing very
14 rapidly, as well as the regulatory developments and the
15 initiation of competition.

16 It seems to me that the, that the personnel that we
17 need to process what has to be done now in telecommunications
18 is more telecommunications specific, where in years past you
19 could have more cross-training and more people doing -- in
20 other words, one year we may have three electric rate cases and
21 that's a really heavy load, and the next year we have three
22 telephone and some of the people that were working on electric
23 could go over and do telephone. I'm not so sure that in things
24 like arbitrations and things like that if we have -- all of the
25 sudden we don't have electric rate cases, that you can pull

1 those folks over to do arbitrations. There probably are some
2 very skilled people that could do that, but the likelihood of
3 that is, I think, less now than it was in years past. You can
4 agree or disagree. It's just an observation.

5 MR. WAHLEN: Sure.

6 CHAIRMAN BAEZ: Commissioner Jaber, I know you have a
7 question. Ms. White, before I disengage on, on this, and I
8 mean no disrespect, but I want you to be sensitive to, to, to
9 what I feel is the Commission situation.

10 You made, you made a, you made a point that you once
11 had six attorneys and now you only have three. And I guess I
12 don't disagree with you again in principle that we can run a
13 little leaner and do things a little bit more efficiently and
14 work smarter.

15 I think the difference between your situation and
16 certainly this Commission's situation is that when, when we get
17 a mega arbitration filed, I can't go and pull out an attorney
18 from Atlanta and I can't bring one down from North Carolina and
19 I can't bring one over from Mississippi. And I want you to be
20 conscious of, of where your situation is and what your dynamic
21 and your advantages or those resources that are available to
22 you compared to we're self-contained here. We have to deal
23 with capacity issues. And in anticipation on some level, and I
24 don't mean this in an absolute sense, but we need to be able
25 to -- you know, we had a lot of talk about how, how proud we

1 are and how, how much of a priority it is to be able to offer
2 the industries the benefit of certainty, the benefit of quick
3 responses, the benefit of, of timely processing so that
4 competition, whatever their benefits may be, can be available
5 on a timely basis to, to, to the state and to the companies
6 that, that wish to compete and provide service here.

7 All of that falls into -- and I don't think it's as
8 simple as looking and saying, you know, well, if I've got to do
9 with less, then everybody else should have to. I think as a
10 general principle that's fair, but I don't think it's the whole
11 picture.

12 MS. WHITE: No. And I, and I agree with you. And, I
13 mean, and I think that's where the other questions come in.
14 Can you do more -- can you find more efficiencies?

15 CHAIRMAN BAEZ: Absolutely.

16 MS. WHITE: Are there other ways to raise revenues
17 rather than a 50 percent increase in the RAF or are there ways
18 to raise revenues so that you don't have to have a 50 percent,
19 maybe a 20 or a 30 percent?

20 CHAIRMAN BAEZ: And I'm with you on that. I think
21 that the reason we are all here is to try and come up with, you
22 know -- I think Mr. Wahlen kind of broke it down into
23 regulatory terms, and it was a very interesting analogy and I
24 do appreciate it. There's a, there's a rate structure issue
25 and there's a revenue requirement issue. I mean, not to harken

1 back to the good old days, as Commissioner Deason --

2 COMMISSIONER DEASON: I didn't know they were so good
3 at the time.

4 MS. WHITE: I know. Isn't it, isn't it amazing?

5 CHAIRMAN BAEZ: They were a lot simpler, that's for
6 sure. But I do appreciate the analogy and I think it's a very
7 appropriate one. And I look forward to, once we get Mr. Long
8 done with his comments and questions and we can get, move on to
9 the cost recovery issue, we can get creative there as well. I
10 appreciate your comments.

11 I'm sorry, Commissioner Jaber. I left you waiting
12 there for too long.

13 COMMISSIONER JABER: It's okay actually. The
14 compilation of all of your comments gives me this question.
15 And just to add on to something Commissioner Deason said, the
16 other benefit that we see in the other industries and, frankly,
17 it may be in the good old days of telecom, was certainty. And
18 certainty among state and federal agencies by definition is
19 more efficient. And what happens in rate cases, you can rely
20 on the DEP standard, whether we like them or not, being what
21 they are. They are what they are. The water management
22 district standards are what they are. And electric, the same
23 thing, the DEP standards are what they are. The local
24 government standards are what they are, and things sort of
25 become routine. There aren't a lot of new issues and there

1 aren't things in flux.

2 And what I find particularly awkward to deal with as
3 it relates to telecom, I cannot say that about telecom. And
4 there are some inefficiencies from this agency and, frankly,
5 from your companies that you inherit because the rules are
6 always changing.

7 MS. WHITE: I would agree with that.

8 COMMISSIONER JABER: Yeah. And I know that's
9 frustration on everyone's part. But saying that, you reminded
10 me of a question. You said the RAF should cover the things you
11 have to regulate, and let's explore that a little bit.

12 What if we had the ability to develop a compensation
13 structure for the things we have to regulate, you know, the
14 service issues, the consumer complaints, the, to some degree
15 the consumer outreach, I think that those are regulatory
16 functions. And then as it relates to your industry, a
17 compensation structure for the things we should -- for the
18 things we have to deregulate, you know, the -- I can't describe
19 it in a different way, but the deregulatory restructuring
20 proceedings that we are dealing with, the arbitrations, the
21 complaints, the generic proceedings. I want to dig deeper in
22 your numbers in a minute because I bet some of those two to ten
23 dockets you said were initiated by the Commission were still
24 not initiated by the Commission because we wanted to, but
25 perhaps we were reacting from the FCC. So --

1 MS. WHITE: Oh, yeah, I would absolutely agree with
2 you. I mean, many of them were generic type things.

3 COMMISSIONER JABER: Okay. So those -- okay. Well,
4 let's say they're generic proceedings because of reciprocal
5 compensation. Let's pick on that. Those proceedings,
6 arbitrations, complaints, maybe it's appropriate to revisit the
7 statute and figure out how the PSC can recover costs associated
8 with handling those dockets which we can't turn our head from.
9 You have to entertain those proceedings, but maybe the
10 regulatory assessment fee model no longer fits for that.

11 MS. WHITE: I, I would absolutely agree that that's
12 something that needs to be looked at and, and I wouldn't rule
13 anything out about that entirely. I think it's something that
14 needs to be discussed.

15 COMMISSIONER JABER: Okay. I think there's a lot of
16 consensus, but how do we bring this home? I mean, this -- I'm
17 so pleased you all come to the table and you're willing to
18 think out of the box on these ideas, but how do we bring this
19 home in time for if there's a statutory change that's required?
20 How do we get there? What mechanism would you propose we
21 follow?

22 MS. WHITE: Well, obviously we need to get the right
23 people together from the industry and the, and the Commission,
24 and maybe we need to sit down and see if we can put together
25 some legislation and talk about how to do these things.

1 CHAIRMAN BAEZ: Mr. Wahlen.

2 MR. WAHLEN: I just want to be clear that, that that,
3 the idea of some sort of cost recovery for an arbitration or a
4 complaint was an issue that the FTIA talked about, and we were
5 unable to reach agreement that that was a good thing. So to
6 walk away from here today with the impression that there is
7 consensus that that's a good idea would be to walk away with
8 the wrong impression. That is a very contentious issue that
9 implicates people's ability to, you know, compete and, you
10 know, their view of the playing field and those kind of things.
11 So, you know, what we tried to do was suggest some smaller
12 changes that would not be quite as contentious in our
13 recommendation.

14 COMMISSIONER JABER: I was not confused about that,
15 Mr. Wahlen.

16 MR. WAHLEN: Okay. Well, I would be remiss if I did
17 not clarify.

18 MS. WHITE: Well, and at least if, if, if, if we
19 can't do it for this session, then do the things we can do and
20 see if we can get it for the next, for next year. I mean, I
21 don't think we should, you know, write that off the bat or just
22 write it off if it can't be done this year. I think you're
23 right. I think it's something that needs to be looked at.

24 COMMISSIONER JABER: One last thing, Mr. Chairman,
25 and I know you want to move on.

1 You want the luxury of having the agency, and I don't
2 mean that as a criticism, the agency resources when you need
3 the agency resources. That's -- yesterday was a perfect
4 example. I wasn't here for agenda yesterday, but it's my
5 understanding after the fact that there was an emergency tariff
6 that needed to be considered, for example, as a result of the
7 hurricane. Those resources were available. I don't know which
8 staff worked on that tariff filing. It doesn't matter. The
9 fact is this agency found resources to handle that request on
10 an emergency basis. This agency finds resources when we get
11 something handed down to us by the FCC, not once, not twice,
12 but three times sometimes. Reciprocal compensation was even
13 more than that. This agency has to find resources.

14 There has to be a way for all of you to come to the
15 table and figure out what the right mechanism is to allow this
16 agency to serve the citizens of the state of Florida in the
17 effective, most efficient way possible. And I understand what
18 you just said, Mr. Wahlen. But so that you all are not
19 confused as it relates to this Commissioner, for as long as I'm
20 here my goal is to make this agency more efficient, but my goal
21 is to ensure that things happen in the state of Florida that
22 benefit the consumers of the state of Florida in a way that
23 allows consumers to be protected and phone, electric and water
24 service to run efficiently and safely.

25 MR. WAHLEN: We understand that and we appreciate

1 that very much.

2 CHAIRMAN BAEZ: Thank you, Commissioner.

3 Mr. Long, you've been waiting patiently, and I think
4 it's time, it's time we hear from you and get some questions
5 out as well.

6 MR. LONG: Thanks. I'm Mark Long with the Florida
7 Competitive Carriers Association. I'd just like to start with,
8 just be mindful that the smaller the player, the more of an
9 impact any increase is going to have on them. I mean, you've
10 got a spectrum of BellSouth is the largest player and an
11 individual consumer is the smallest player that you're going to
12 deal with that might bring a complaint or might have a docket
13 before this Commission. Any increase in costs are going to be
14 more felt by an individual consumer coming here than they are
15 by BellSouth coming here.

16 Given that, I'll circle back to that in a minute, I
17 also recognize that --

18 COMMISSIONER BRADLEY: Excuse me. I don't think we
19 stated that we're advocating that individual consumers would be
20 subject to what we're discussing today, did we? Maybe I
21 misunderstood you.

22 MR. LONG: Okay.

23 CHAIRMAN BAEZ: You go ahead and clarify, Mr. Long.

24 MR. LONG: Yeah. There's been discussion about
25 filing fees, about application fees, about all other kinds of

1 fees, and it has not been determined who or who would not be
2 subject to such fees.

3 All I'm saying is in a general sense you have a
4 spectrum; you have a spectrum from large and you have a
5 spectrum to small. And any fees that you impose are going to
6 have more of an effect on someone, if they are subject to them,
7 a smaller player than they are a larger player.

8 COMMISSIONER BRADLEY: Okay. But not, not -- let's
9 be clear. Not individual consumers. We don't regulate
10 individual consumers. They're not subject to RAFs.

11 MR. LONG: Well, I mean, if you chose to impose a
12 filing fee upon complaints to this Commission, then you would
13 have to make a special exception to say, well, if anybody files
14 a complaint at this Commission, you have to apply, you have to
15 submit a fee. But if you are an individual consumer and you
16 file the same complaint that a company would file that some
17 company has done you wrong, you would not have to pay the same
18 fee. I mean, you would have to have, I would think, an
19 exception for that. I mean, if you were going to impose a
20 filing fee --

21 COMMISSIONER DEASON: Mr. Long, don't you -- I think
22 the way the law is written, before we can accept any type of a
23 regulatory assessment fee, you have to be a regulated entity,
24 hold a certificate. I don't know that there are any individual
25 consumers in this state that hold a certificate from this

1 Commission. I'm just trying to put it in practical terms what
2 you're saying.

3 MR. LONG: I agree. Let me circle back to that when
4 I'm finished and see if I haven't answered your question, and
5 then we'll get back to it.

6 Given that spectrum, I also realize that all the
7 suggestions I think made by all the FTIA and us is not going to
8 make up \$3.5 million worth of shortfall you're going to find in
9 the next year. And at the end of the day if you determine that
10 an increase in regulatory assessment fees is necessary, and by
11 Mr. Mailhot's numbers it's getting to be the afternoon of that
12 day, the FCCA would suggest that you continue to pursue your
13 cost cutting measures as you, I believe, have aggressively done
14 and have done a very admirable job in doing. And that if such
15 an increase becomes necessary, that you maintain the existing
16 way you charge regulatory assessment fees and you increase that
17 by a fixed amount and you do not impose any other fees on any
18 other consumers, companies, anybody else.

19 And I have a couple of reasons for that. First,
20 circling back to my first point, the smaller the carrier, the
21 more impact a fee is going to have on their ability to seek
22 justice before this Commission or seek a certificate or
23 continue their certificate.

24 The second part of that is if you look at the
25 proposals by the staff to, to increase the fees, really, with

1 one exception, all the increases put together will not make one
2 basis point's worth of difference in the regulatory assessment
3 fee. One proposal, I believe, would, and that would be
4 increasing the minimum regulatory assessment fee to \$1,000 from
5 the current \$50. The effect that would have is if there is a
6 minimum regulatory assessment fee of \$1,000, a
7 telecommunications company would have to have a half a million
8 dollars in revenues a year for that not to be a punitive tax on
9 them. That in order for them to have, them to owe you that in
10 regulatory assessment fees anyway, they'd have to have a half a
11 million dollars in revenues. And other than that, it would be
12 a punitive tax on every company that does not. And I believe
13 there are viable companies in this state that do not have a
14 half a million dollars in revenues but yet still make money.

15 COMMISSIONER DEASON: And how does that number
16 determine -- you say that's punitive. Are you assuming that
17 that's what it would have to be for the \$1,000 minimum not to
18 exceed the current RFA rate?

19 MR. LONG: Yeah. I believe it's somewhere around
20 over \$600,000 at the current .15, and it would be 400 and
21 something at .23. So roughly a half a million dollars.

22 COMMISSIONER DEASON: Okay. Thank you.

23 MR. LONG: The other proposal that there haven't
24 really been any numbers associated with is imposing a filing
25 fee on dockets, on complaints brought on other types of actions

1 brought before this Commission, and there were no numbers and
2 there's really nothing for me to go by, off the top of my head
3 as I've been sitting here waiting. If there are -- I believe
4 there were somewhere around 1,400 dockets opened here last
5 year. Say, let's round it to 1,500 because my math is
6 horrible. If a third of those you could extract a filing fee
7 from, that would be some action that you would determine this
8 type of action you impose a filing fee from. You know, it
9 would not include, say, consumer complaints; it would not
10 include actions, of course, you bring; it would not include
11 dockets for certificates that already have fees associated with
12 them. Say if you could get a fee from a third of them,
13 500 dockets, you would have to again impose a filing fee of
14 \$1,000 in order to make it worth one basis point's worth of
15 difference in the regulatory assessment fee. So -- but yet
16 that effect it would have on small companies, on, on smaller
17 entities would be, I think, significant, and it would be
18 significant in, in reducing the level of competition, reducing
19 the level of the ability of these smaller carriers to bring
20 actions before you. You know, revenues are shrinking.
21 Certainly my clients' revenues have shrunk in the last five
22 years.

23 The arbitrations, even now they're having a hard time
24 affording business today. Arbitrations, they're looking at
25 combining companies in arbitrations; that individual companies

1 can no longer afford to arbitrate interconnection agreements by
2 themselves. Other companies are looking into opting into
3 agreements that really may not be in their ultimate best
4 interest, but they can't afford to arbitrate it, so they don't
5 have much of a choice. A lot of my clients and other small
6 competitors that I'm familiar with are facing those things
7 today that five, six, seven years ago they did not. If they
8 had a dispute, they'd come in here and arbitrate it. They're
9 not all doing that now because they simply can't afford it.
10 And so imposing more fees on them, I think, is just going to
11 have a negative effect on their ability to continue to come
12 before you.

13 COMMISSIONER JABER: Help me understand industry
14 participation. And a lot of -- I'm sorry, association
15 participation. In the other industries there are associations
16 that the companies pay into. As it relates to FCCA and FTIA,
17 do companies pay you all an annual amount in membership dues?

18 MR. LONG: FCCA members pay dues.

19 MR. WAHLEN: Yes.

20 COMMISSIONER JABER: That's public information, isn't
21 it? I mean, that's not a conflict.

22 MR. WAHLEN: No. It's no secret. We -- you know,
23 the amount of dues, I think, is not widely known, but we do
24 assess dues on all of our members.

25 COMMISSIONER JABER: And what do you base the amount

1 on? Do you collect the same from everyone?

2 MR. WAHLEN: It's a very complicated formula.

3 COMMISSIONER JABER: That doesn't surprise me at all.
4 Why don't you share that formula with us.

5 MR. WAHLEN: It's in one of those red folders
6 Commissioner Deason was talking about.

7 COMMISSIONER JABER: Oh. Well, I don't think we have
8 those red folders.

9 (Simultaneous conversation.)

10 MR. WAHLEN: I will say this just for general
11 enlightenment, the FTIA is one of the few associations in the
12 country that is not just an ILEC association. Most of the
13 telephone associations around the country are simply ILECs.
14 And five, six, seven years ago wireless IXCs were invited in
15 and it's worked very well and has allowed us to work together
16 on a lot of very important things.

17 COMMISSIONER JABER: Yeah. No. My question doesn't
18 go to your effectiveness or anything like that. But I'm just
19 curious, companies pay you annually to be part of your
20 organization. Is that same --

21 MR. WAHLEN: Yes.

22 MR. LONG: That is correct, although I probably
23 shouldn't get into the specifics of it, the largest companies
24 in FCCA pay significantly more in dues than the small companies
25 do.

1 COMMISSIONER JABER: Okay. Mr. Long, my next
2 question of you -- did you hear my question earlier about
3 mediation and thinking out of the box in terms of what this
4 agency can do to provide incentives to encourage the use of
5 mediation more broadly?

6 MR. LONG: Yes. And we have that as a general
7 comment in our comments to explore the -- more use of mediation
8 and arbitration. I don't have a specific answer on how that
9 can be accomplished.

10 I mean, ultimately in my experience in mediation
11 before this Commission, if there is nothing a mediator can hold
12 over either side, then either side is still just arguing the
13 same thing they were arguing on a conference call the week
14 before. But I don't know what that is. I mean, I don't know
15 what the answer to that is, but it certainly, I think, would be
16 a fruitful use of time to maybe talk about that further and
17 maybe explore trying to use that and how it can be more
18 effective than it is today and how we can use it more.

19 COMMISSIONER JABER: You do accept that if you all
20 could figure out how to make that more effective, that would
21 take less Commission resource, that would take less industry
22 time and expense because obviously if you're mediating, you're
23 not litigating; do you agree with all of those principles?

24 MR. LONG: Absolutely. Absolutely.

25 COMMISSIONER JABER: Does your association provide

1 mediation services?

2 MR. LONG: I do not believe we do.

3 COMMISSIONER JABER: Does yours, Mr. Wahlen?

4 MR. WAHLEN: No, we don't. There, there are some
5 antitrust implications for a private entity like that to
6 undertake to resolve disputes, so we don't do that. That's the
7 role of the Commission and the, you know, private mediators,
8 that kind of thing.

9 COMMISSIONER JABER: The same -- and forgive me. I
10 just, I'm not familiar with that part of the law. Do those
11 same concerns extend to the association hiring or paying for a
12 mediator regardless of who the company is?

13 MR. WAHLEN: Well, I have never thought of that, but
14 I don't think there's any reason that private litigants can't
15 go out and hire their own mediator, if they want to, if they
16 think that's effective.

17 COMMISSIONER JABER: Thank you, Mr. Chairman.

18 COMMISSIONER DEASON: I have a question for Mr. Long.

19 CHAIRMAN BAEZ: Go ahead, Commissioner Deason.

20 COMMISSIONER DEASON: I believe in your comments you
21 suggested maybe more use of DOAH; is that correct?

22 MR. LONG: Again, that's a general comment to explore
23 possibly expanding the use of DOAH. I don't have a specific
24 recommendation on what you should or could send to them today.
25 But that might be something that, that you might want to

1 explore and further use of them. I mean, I guess it ultimately
2 might not reduce the overall state's cost, but it might reduce
3 yours.

4 COMMISSIONER DEASON: Well, in fact, doesn't it cost
5 us -- we have to pay DOAH to process a case, so I mean -- and
6 our only source of revenue is, is, is the regulatory assessment
7 fee. So, I mean, it would be just from one hand to another.
8 If they can do it more efficiently, then maybe that's something
9 we could explore.

10 MR. LONG: Right. Right. And I think that would be
11 part of the equation is if actually, if you pursuing this piece
12 of a case or this case is actually cheaper than sending it to
13 DOAH, then even if DOAH could handle it, it would be something
14 that, that cost-wise you should probably keep in-house.

15 CHAIRMAN BAEZ: Ms. Moore, do you -- and I'm sorry,
16 Commissioner Deason. I was, I was completely unaware of that.
17 Do you have any numbers?

18 COMMISSIONER JABER: Do we pay DOAH?

19 CHAIRMAN BAEZ: How much, how much does it cost us to
20 send something to DOAH roughly? Any ideas out there?

21 MS. BELCHER: (Inaudible.)

22 CHAIRMAN BAEZ: I'm sorry. Can you --

23 MS. BELCHER: We paid \$555 this year based on last
24 year's activities, but it changes from year to year. Last year
25 we didn't have to pay anything. It's just the amount of

1 activity.

2 CHAIRMAN BAEZ: Well, can that \$555 be broken down
3 based on activity? I mean, is it, is it as simple as that or
4 --

5 MS. BELCHER: We can get the detail to support that
6 number.

7 COMMISSIONER JABER: What was the answer? It's
8 \$555 on an annual basis? What was the answer?

9 CHAIRMAN BAEZ: No. It was \$555 last year. It's
10 sort of based on activity.

11 COMMISSIONER JABER: Well, we need the FCC to pay us
12 then.

13 CHAIRMAN BAEZ: The more, the more activity you send
14 to DOAH, the more the bill is. That seems, seems reasonable, I
15 guess.

16 COMMISSIONER DEASON: Is it, is it a per case
17 assigned?

18 CHAIRMAN BAEZ: Yeah. I guess that --

19 COMMISSIONER DEASON: Or is it dependent on the
20 number of hearing days or how do they assess their fees?

21 DR. BANE: Could we get back to you on that? I'm not
22 sure we have the answer to that, but we can look at it
23 specifically.

24 COMMISSIONER DEASON: I mean, it's very rare that we
25 do assign things to DOAH. But, I mean, I'm -- you know,

1 obviously we need an open mind about everything. And if there
2 are certain types of cases that DOAH can handle and handle
3 effectively and do it in a cost-effective manner, maybe that's
4 something we need to take a look at. There's a lot of ifs
5 there, but --

6 DR. BANE: We will research that.

7 CHAIRMAN BAEZ: Commissioner Deason, you had some
8 more questions? No.

9 COMMISSIONER DEASON: Well, I have -- if -- are we
10 finished with presentations?

11 CHAIRMAN BAEZ: Yeah, we are. And we're -- just to
12 let you know my plan, I think we have a cost recovery
13 discussion coming up, but I think it would probably be most
14 appropriate to do that after a lunch break and, you know, come
15 back. Maybe there's something that's been said here that
16 hadn't been entertained before as an idea.

17 COMMISSIONER DEASON: I have a few questions for
18 staff.

19 CHAIRMAN BAEZ: So if you have some questions, go
20 ahead and fire away.

21 COMMISSIONER DEASON: These are, I guess, more
22 technical questions. Maybe Mr. Mailhot could help me.

23 What, what revenues -- what is the base of revenues
24 upon which the RAF is applied? Is it all -- are there certain
25 categories or revenues that are -- I know that yellow page

1 obviously is exempt. But are there -- what other revenues are
2 exempt?

3 MR. MAILHOT: Are exempt?

4 COMMISSIONER DEASON: Yes.

5 MR. MAILHOT: Anything that's nonregulated.

6 COMMISSIONER DEASON: What about access charges?

7 MR. MAILHOT: They pay a regulatory assessment fee on
8 access charges. They pay on gross intrastate
9 telecommunications revenues, which is basically pretty much all
10 their charges to the end-user that's intrastate. They don't
11 pay, say, like on the subscriber lines.

12 COMMISSIONER DEASON: It's long distance, it's
13 ancillary services, access. What about recip comp, how is that
14 handled?

15 MR. MAILHOT: If they record it as revenue -- for
16 example, BellSouth, if they recorded it as revenue, they would
17 have to pay a regulatory assessment fee on that.

18 Now what they do, are allowed to do is a company does
19 subtract payments to other telecommunications companies, so we
20 don't have any double counting.

21 COMMISSIONER DEASON: So if they're a net recipient,
22 they pay. If not, it actually is -- you're talking about recip
23 comp. It's --

24 MR. MAILHOT: Well, now say like a long distance
25 company, they record their revenue and they pay access charges.

1 Those access charges that they pay to a local exchange company,
2 they deduct that from their gross revenue, and then the local
3 exchange company records the access charge as revenue.

4 COMMISSIONER DEASON: Okay.

5 MR. MAILHOT: It's just to avoid double counting.

6 COMMISSIONER DEASON: And this maybe is a question
7 for Dr. Bane. The -- is there some type of a charge or a fee
8 associated with our court reporters providing transcripts or
9 how is that handled?

10 DR. BANE: I believe there is a fee for outside
11 parties. I don't see anyone from the clerk's office here.
12 But, no, when they actually do the recordings, no, sir, I don't
13 think there is.

14 COMMISSIONER JABER: Ms. Bayo is right behind --

15 DR. BANE: Oh, Blanca is here. I didn't see you.

16 MS. BAYO: I'm sorry. Repeat the question for me.

17 COMMISSIONER DEASON: Yeah. The question is when we
18 utilize in-house court reporters to, to provide that service
19 for a hearing and the transcripts are produced, is there any
20 type of a charge or fee that we -- that is a source of revenue
21 for the agency for that service?

22 MS. BAYO: Per page, depending on, on the per, the
23 per page amount of the transcript they get charged. So if the
24 transcript is -- if somebody from outside or that's not
25 participating in wants a copy of it, it's charged. But if

1 they're participating, I don't believe that they get charged.

2 For example, in this case if, if somebody -- if a
3 court reporter is, is transcribing a hearing, they are charging
4 it in the Time Direct against the industry, and that's how it's
5 billed.

6 COMMISSIONER DEASON: Okay. But now if Mr. Wahlen
7 wants a copy of this transcript, is he charged for that?

8 DR. BANE: It goes onto the Web page or it's filed as
9 part of the docket is what Beth was saying. So it's
10 electronically accessible for free.

11 COMMISSIONER JABER: They download it for free.

12 COMMISSIONER DEASON: So you can download it, so
13 there's no need -- I mean --

14 MS. BAYO: If it's downloaded. But if it's a -- if
15 they want a copy of the transcript, it's five cents per page.

16 COMMISSIONER DEASON: Five cents per page?

17 MS. BAYO: Yes, sir.

18 COMMISSIONER DEASON: What is the going commercial
19 rate?

20 MS. BAYO: It varies depending on, on the cost of the
21 reporter.

22 MS. MOORE: I believe -- I asked about that in
23 another context the other day, and I think the first copy of
24 the original is \$3.50 per page. Subsequent copies are \$2.00
25 per page.

1 COMMISSIONER DEASON: Boy, if the attorneys had to
2 pay for that, it'd cut down on cross-examination, wouldn't it?
3 No, it would not? Okay.

4 Well, I mean, maybe this is an area where it's -- I
5 mean, I indicated earlier, we need to keep an open mind. Maybe
6 this is -- maybe the transcripts -- you know, it's a difficult
7 thing. If there's a member of the public who wants to look at
8 a transcript of our proceeding and they're just a private
9 citizen, you know, I'd hate to deny them that. But at the same
10 time, maybe it's a source of revenue for, for litigants in a
11 proceeding, if they want the transcript, to pay for it. Maybe
12 that's a way to help defray costs. I don't know. I'm just
13 drawing it out. It's something to consider

14 MS. BAYO: There's also the issue that, you know, of
15 making sure that there's not a profit associated with providing
16 copies. I mean, it's basically we -- there are certain
17 limitations on the public records laws too. So, I mean,
18 there's just a fine balance between providing the information
19 and, and doing it --

20 COMMISSIONER DEASON: Well, how, how, how do courts
21 do it? Do -- is that -- do courts do their own recording or is
22 it up to the attorney to have someone there present to do it
23 for him or her?

24 MS. BAYO: I'm not, I'm not familiar specifically.
25 But as I recall, that's correct. In many instances, the

1 attorney has to hire and bring in. Now in a court, in a
2 federal court or in a, in a judicial proceeding they have
3 on-staff reporters as well. Like DOAH, for example, used to
4 have reporters. They don't have them any longer.

5 COMMISSIONER DEASON: Well, obviously we don't want
6 to run afoul of the public records law and things of that --
7 and I'm not even suggesting that. But it just seems to me that
8 we're trying to -- I think to some extent we're -- there are
9 legitimate costs out there and we're trying to put cost on the
10 cost cause, which we hear so many times in some of our
11 proceedings. Maybe that's just one source there that's easier
12 to identify the cost causer and who should pay. I don't know.

13 CHAIRMAN BAEZ: Commissioner Bradley.

14 COMMISSIONER BRADLEY: Yes, along that same line. We
15 know when, when an individual makes a request for a transcript.
16 But when they download that transcript, do we have any means of
17 knowing who has downloaded that transcript?

18 MS. BAYO: No, sir.

19 COMMISSIONER BRADLEY: So, in other words, it's
20 absolutely free to them then.

21 MS. BAYO: It's on-line.

22 COMMISSIONER BRADLEY: Okay.

23 COMMISSIONER JABER: But, you have -- Ms. Bayo, if we
24 could explore all of those fees a little bit further. You only
25 have transcripts for hearings and agendas where someone has

1 specifically requested that you transcribe an item.

2 MS. BAYO: Not just someone. It's only for
3 situations where Commissioners or staff request. We are here
4 to serve the Commissioners and the staff. So if someone from
5 private practice wants to bring a reporter in to do their own,
6 they're free to do so. But we serve and work at the pleasure
7 of the Commissioners.

8 COMMISSIONER JABER: Okay. Let's take it a step at a
9 time. So for hearings, the agency transcribes the hearings.

10 MS. BAYO: Correct.

11 COMMISSIONER JABER: For agendas, if one of us or the
12 staff has asked you to transcribe an agenda item, the
13 transcript is available.

14 MS. BAYO: Yes.

15 COMMISSIONER JABER: All other times for agendas and
16 I guess workshops only the cassette tape is available.

17 MS. BAYO: Correct. It's, it's on-line, of course,
18 in many instances.

19 COMMISSIONER JABER: Oh, audio. The audio is
20 on-line.

21 MS. BAYO: Audio on-line. So it's, it's available to
22 hear as if live on-line.

23 COMMISSIONER JABER: What other things in your office
24 do parties, interested persons, companies take advantage of? I
25 mean, I know they -- didn't you have a computer that they could

1 come in and research?

2 MS. BAYO: Yes, ma'am. They can come in, they can
3 view microfilm from, dating back for many, many years. Staff
4 help them look and research that. Now we do not conduct the
5 research, but my staff is very knowledgeable and provide great
6 assistance to them.

7 Of course, the information in the Master Commission
8 Directory is posted on the Web, the Case Management information
9 is all available and posted on the Web. They can come in and
10 request to view it on-line in the computer, in the terminal
11 that's there so that they don't have to have a computer. They
12 can request copies of information, of course, depending on, on
13 the cost, the total, the --

14 COMMISSIONER JABER: Okay. Now we weren't required
15 to do all of that.

16 MS. BAYO: No, ma'am.

17 COMMISSIONER JABER: But now that we have done it, we
18 have to comply, of course, with the public records law.

19 MS. BAYO: Exactly.

20 COMMISSIONER JABER: Now the public records law does
21 not prohibit us from assessing a charge for that access, does
22 it?

23 MS. BAYO: For making copies. We don't -- I don't
24 know the answer to that, to, to be perfectly honest.

25 COMMISSIONER JABER: Okay. Let's let legal --

1 MS. BAYO: In terms of all of the other things, I
2 don't know.

3 COMMISSIONER JABER: Okay. Let's let legal answer.

4 MS. MOORE: I think in order to make any charge you
5 have to have an affirmative statement in the statute. The
6 statute has to authorize the charging of fees. I'm not aware
7 that it does, except if it takes a substantial amount of
8 supervisory or staff time in order to respond to a request for
9 copies. There --

10 COMMISSIONER JABER: Okay. And I'm not advocating --

11 MS. MOORE: We are required to make access to our
12 orders available and a searching function or a good index.
13 That is required by --

14 COMMISSIONER JABER: Okay. And I'm not advocating
15 that we start doing that. But just in an effort to think out
16 of the box, I suppose that is a potential for a statutory
17 change. When we provide copies pursuant to a public records
18 request, isn't there a per page cost assessment?

19 MS. MOORE: Yes, there is. It's five -- and we
20 charge five cents per page.

21 COMMISSIONER JABER: And that's outlined in a
22 statute; correct?

23 MS. MOORE: There's authority to charge. I think
24 it's supposed to be based on the cost.

25 COMMISSIONER JABER: Okay. And is it so specific

1 that that's only for an official public records request or what
2 exactly does that statute authorize us to do?

3 MS. MOORE: To charge for copies of documents.

4 COMMISSIONER JABER: And for research, for research
5 time?

6 MS. MOORE: Now I think, I think parties -- for
7 research time in the sense of locating the documents? No, not
8 that I -- we can only for actual time supervising the copying
9 of them is my belief.

10 MS. BAYO: Or only associated in an instance of a
11 public records request where there's substantial time that's
12 been spent in researching, trying to find the information to
13 respond to the request. But, for example, that would be in
14 instances where you had extensive computer time or staff, a
15 computer analyst or something. In that case you would be able
16 to charge for that staff person's time. But, again, it's
17 mostly limited to a public records request that's extensive.
18 It's not intended to be a profitable instance.

19 CHAIRMAN BAEZ: Commissioner Deason.

20 COMMISSIONER DEASON: I have a question for either
21 Mr. Wahlen or Ms. White. The -- I'll address it to Ms. White
22 and I can make it company specific. For BellSouth, and just as
23 an example take a single line residential customer, how does
24 the regulatory assessment fee show on that bill? Is it a line
25 item or is it just part of service?

1 MS. WHITE: No. It's definitely not a line item. I
2 guess back when it first became, when it was first imposed, it
3 was part of the rate base. So there's, there's nothing I could
4 point to in our rates that say that specifically, regulatory
5 assessment fee.

6 COMMISSIONER DEASON: It wasn't rate base, it was
7 base rates.

8 MS. WHITE: Thank you very much. That's like -- it
9 was economic customer units.

10 COMMISSIONER DEASON: That's okay. But it was just,
11 it was just included in an overall revenue requirement.

12 MS. WHITE: Yes. Yes. There's, there's, there's no,
13 there's no separate line item for this. There never has been
14 to my knowledge.

15 COMMISSIONER DEASON: Okay. Okay. Mr. Wahlen, do
16 you know if that's the practice for all of the incumbent LECs?
17 And then -- and do you have any knowledge of some of the
18 competitors, how they, they treat that?

19 MR. WAHLEN: I know that for all of the ILECs that is
20 the case. I do not know the answer for the IXC's.

21 COMMISSIONER DEASON: Mr. Long, do you know?

22 MR. LONG: I am not aware of any IXCs that, I haven't
23 seen everybody's bill, that charges a specific line item for
24 it. I mean, you figure at whatever the current rate is, it
25 would be, what, \$40 would be three cents. And it would

1 probably cost them more than, you know, three cents to put
2 another line on their bill. So I don't think any of our
3 carriers charge it as a line item.

4 COMMISSIONER DEASON: Okay. And then that brings me
5 to another question I have for Mr. Wahlen. I think in your
6 presentation you indicated that in the aggregate it would be
7 somewhere in excess of \$4 million overall increase and that
8 these amounts could not be automatically passed through. And,
9 and I guess that's because of the fact that, you know, that it
10 is a competitive industry now and all costs have to be
11 considered and only the market will bear what the market will
12 bear, I guess. But my question is if all companies have to pay
13 their fair share, is there some competitive disadvantage? I'm
14 not saying that there should be an increase in the, in the
15 regulatory assessment fee. But if there is an increase,
16 doesn't it apply to all participants in the market so that one
17 company does not get an advantage or disadvantage because it's
18 just a cost of anybody that's going to do business in the
19 Florida market has to pay?

20 MR. WAHLEN: You know, intuitively that makes sense,
21 that if the RAF goes up, everyone who pays the RAF will bear
22 it, you know, equally. I'm not sure that's the answer for us.
23 There are some unregulated services out there. There's lots of
24 dynamics in a competitive marketplace that make increasing the
25 RAF a very uncomfortable thing for those who pay it.

1 CHAIRMAN BAEZ: Do you have a question, Commissioner
2 Bradley? Okay. I think if it's all right with the
3 Commissioners, we can break for an hour and be back at 1:30,
4 and then we'll finish, finish the discussion.

5 (Recess taken.)

6 CHAIRMAN BAEZ: Ladies and gentlemen, we are going to
7 go back on the record. And I believe, Doctor Bane, there was
8 a -- I believe Mr. Mailhot had some comments.

9 DR. BANE: Yes. Mr. Mailhot now is going to sort of
10 coordinate the discussion of cost-recovery. And,
11 Commissioners, we have a couple of handouts related to the FCC
12 filing fees, a memo from Greg Fogleman, and then Beth Salak has
13 the actual order, I believe. If we could just circulate those
14 to you at this time.

15 CHAIRMAN BAEZ: Sure.

16 DR. BANE: And then, Dale, would you sort of lead the
17 discussion.

18 MR. MAILHOT: Okay. I want to go back to the handout
19 at the back of the package that you were given yesterday. The
20 schedules that we were looking at earlier, in particular the
21 one that references telecommunications revenues and expenses.
22 I believe it is the second or third page. **Okay. What we have**
23 **done** there is we have calculated the revenues and expenses for
24 the telecommunications industry at the current rate, and then
25 on Lines 6 and 7 we have a calculation of what the RAF rate

1 would have to be in order to cover the deficit.

2 At the current level of expenses and the projected
3 revenues for 2005/2006, we would need a RAF rate of .22 percent
4 in order to eliminate the deficit for telecommunications. In
5 order to eliminate the deficit for just the Commission as a
6 whole, a slightly lower RAF rate of .21 percent would be
7 necessary.

8 CHAIRMAN BAEZ: Dale, just for clarity's sake, can
9 you go ahead and explain why the difference in the --

10 MR. MAILHOT: The reason for the difference is that
11 telecommunications is projected to have a deficit of
12 approximately \$3.6 million for 2005/2006. For the same time
13 period, the Commission overall is only expected to have a
14 deficit of about 3.2 million. Basically, the difference
15 between those numbers, in essence, is being made up by other
16 industries. There is a slight surplus in the other industries,
17 the electric, gas, water and wastewater. They are contributing
18 slightly more than their costs.

19 CHAIRMAN BAEZ: Are you putting that kindly? I mean,
20 I think there is a regulatory term for that, right?

21 MR. MAILHOT: Sorry?

22 CHAIRMAN BAEZ: Is there a regulatory term for that?
23 Is there a subsidy or --

24 MR. MAILHOT: Oh. Yes. And there is, but that is
25 not really a problem.

1 CHAIRMAN BAEZ: I'm being facetious. But it is sort
2 of what you are pointing out.

3 MR. MAILHOT: Right. And from time to time that will
4 happen in the normal course of business. It is not unusual,
5 especially with the electric and gas industries. Their
6 revenues tend to fluctuate from year to year. And what we may
7 see is, you know, in this projected period, you know, gas may
8 be overcontributing a hundred or \$200,000, and in another year
9 it will be a little bit below what its contribution is.

10 CHAIRMAN BAEZ: So that condition, in particular, is
11 not something to make too fine a point of?

12 MR. MAILHOT: No. And we don't need to rush out and
13 change those RAF rates because, you know, they are a little bit
14 high.

15 CHAIRMAN BAEZ: I understand.

16 MR. MAILHOT: It's only when we get into the
17 situation that we have really with telecommunications where
18 there is a significant, I mean, a very large variance between
19 the revenues and expenses that we feel like we need to do
20 something. On the next page --

21 COMMISSIONER BRADLEY: I want to ask you a question
22 as it relates to revenues and expenses. Is a part of this that
23 is being presented to us going to be available for unexpected
24 expenses, or is it just that we are budgeting or discussing
25 just enough to cover expenses as we can project right now?

1 MR. MAILHOT: Okay. This is basically to cover the
2 expenses that we are projecting based on -- it is sort of based
3 what we expect our approved budget to be, something in this
4 neighborhood. When you say things that are unexpected, if it
5 is not in our budget, no. I mean, we don't -- number one, we
6 probably can't spend the money. And, number two, we are not
7 proposing additional revenues to cover it. So, I mean, it is
8 just enough to cover what we expect to have for normal
9 expenses. I mean, for normal approved expenses.

10 COMMISSIONER BRADLEY: And one other question. I
11 asked this of the utility companies. The statement has been
12 made that we are asking for a 53 percent increase. Has staff
13 been able to break out what the actual increase is minus the
14 cost of inflation and other normal increases that should be
15 included in the calculation?

16 MR. MAILHOT: No. Really, we haven't analyzed it
17 that way. Yes, I mean, in a sense if you try to raise the RAF
18 rate to .23 percent, that is a 53 percent increase, but we
19 looking at something perhaps a little bit lower than that
20 anyhow. The causes for that percentage increase will vary.
21 Part of it is due to inflation. Part of it is due to the fact
22 that revenues have gone down, you know, which really has
23 nothing to do with inflation. But I can't really say that we
24 have tried to take that and separate it into pieces.

25 I can tell you that just the loss in the directory

1 advertising revenue, if everything else remained equal we would
2 have to raise the RAF rate to almost .19 percent just to make
3 up for that one change. And that was, you know, like I
4 explained earlier, that change had nothing to do with the
5 change in work load or anything else. So, you know, probably
6 close to half of the RAF change that we are looking at here has
7 to do with something that was somewhat out of our control.

8 CHAIRMAN BAEZ: Dale, in your -- and maybe this is
9 not directly related to your chart, but is there -- I guess if
10 we were considering different ways of doing things, and I will
11 go back to Mr. Wahlen's characterization. I mean, there is a
12 revenue requirement and a rate structure issue, so how we are
13 going to address it, whether it be through an increase in the
14 RAF, perhaps not for the entire need that has to be addressed,
15 and perhaps addressing other portions of it through some
16 combination of increased fees and whatever categories, et
17 cetera, would it be proper in considering that type of approach
18 to take into account, you know, what the -- and I'm searching
19 for the word, is it repression or suppression? I mean, the
20 fact that a fee goes up has an effect on how many people
21 actually file for the fee. I'm sorry, Mr. Wahlen?

22 MR. WAHLEN: Elasticity. It's that idea. Attrition.

23 CHAIRMAN BAEZ: That is not quite what I was
24 thinking, but maybe you are right. The same difference, I
25 guess. You know, the concept being if you up a fee all of a

1 sudden, perhaps less dockets get filed, or perhaps less -- and
2 I know that that is probably intuitive, but is it appropriate
3 to have that kind of analysis as part of it, as well?

4 MR. MAILHOT: Yes. I mean, I think if we are trying
5 to project any increase in revenues that might result from
6 increasing -- for example, if you increased the fee for a
7 certificate from 250 to \$1,000, you probably are going to have
8 less people applying for certificates.

9 CHAIRMAN BAEZ: Sure.

10 MR. MAILHOT: And, you know, some consideration ought
11 to be given to that. Now, how much or how well we could
12 quantify it, I don't really know. I mean, since we haven't
13 really changed rates, we don't have any real experience and it
14 would be somewhat subjective. But some consideration should be
15 given to that. Just like if we increase the minimum RAF fee,
16 which would take a statutory change, but if we increased the
17 minimum from \$50 to \$1,000, probably a lot of people aren't
18 going to have certificates anymore, aren't going to want them.
19 And so we would have to consider that. But, like I said, we
20 don't have any experience to say, well, we would lose 721 of
21 them. We just don't have that kind of --

22 CHAIRMAN BAEZ: But at the same time, along those
23 lines, is there a savings there as well? I mean, if our
24 treatment of our expenses or our cost of doing business, if you
25 will -- my question is this: The people that would choose not

1 to have a certificate, I mean, there is a savings, there is a
2 savings attributable to that as well. I mean, if I just have a
3 certificate lying fallow, there is still a cost to the
4 Commission for having jurisdiction over that certificate, even
5 if nothing is ever done with it.

6 MR. MAILHOT: Right. But on an annual basis, I don't
7 think the costs are too great unless the company becomes a
8 problem. You know, we would have trouble collecting RAF or
9 something from them. But on a normal annual basis, you know,
10 about all we would have to do is mail out a RAF return to them
11 and they would send their check back in. So there is a little
12 bit of processing cost, but it is not significant unless the
13 company, itself, becomes a problem.

14 COMMISSIONER BRADLEY: Okay.

15 MR. MAILHOT: So, yes, I mean, there would be some
16 savings. I don't know that it would be too much.

17 On the next page of your handout there, we talk
18 about -- or I have provided some calculations to give you some
19 idea if we increased the minimum RAF rate, which as I said
20 would take a statutory change, it gives you some idea of how
21 much money might be generated. And you can see if we increased
22 the minimum to \$500 for the IXCs and the CLECs, that would
23 generate -- assuming no repression, this is at current
24 numbers -- it would generate about \$378,000 in additional
25 revenue. And at \$1,000, if you increased the minimum to

\$1,000, it would generate 834,000 in revenue.

Just to give you some idea, in terms of the RAF rate itself, one basis point generates about \$600,000 in revenue. So, for example, if you looked at something, you know, like \$800,000, the \$1,000 minimum, which would generate 800,000, that would save or reduce the overall RAF rate by just .01 percent. Which say, for example, from .22 percent down to .21 percent, that is kind of an order of magnitude of what we are talking about here. But that is, you know, one possibility to consider.

On the next page, I have tried to put together a few numbers on increasing some other fees. We have sort of looked at the possibility of increasing the certification and registration fees. Right now PATS certification fee is only \$100. Under the current statute we could raise that to about 250. But I think you see there is not that many new certificates per year, so we are only talking about in that case generating maybe \$7,500 a year.

We have looked at the possibility of -- I believe this may take a statutory change to change the registration fee for an IXC to bring that up to \$250. Right now it is zero. That could generate an additional \$30,000 in revenue.

In Section B there on that page, we are looking at the possibility of charging what we call the cost of collection for regulatory assessment fees. When we have to go after a

1 company at some point and open a docket and pursue them, you
2 know, spend a lot of staff time actively pursuing the
3 collection, we believe that the statute allows us to get the
4 cost of collection from that company. But it is one of those
5 things, you know, the majority of them aren't going to pay
6 their RAF, so they are not going to pay this cost of
7 collection, either. So there is a possibility of getting, as
8 you can see, a few thousand dollars in revenue out of that
9 through a rule change.

10 The last thing at this point that we had considered
11 possibly was to charge specific filing fees as was discussed
12 earlier. We don't have any real data on that, on what we might
13 charge, but it is just something to consider.

14 I think you can see from these last two pages, the
15 only item here that generates any significant amount of revenue
16 would be a large increase to the minimum RAF rate. And then
17 the last page of your handout, we have tried to mention the
18 required statutory changes in order to -- number one, is to
19 increase the regulatory assessment fee minimum, that would take
20 a statutory change because right now the limit is \$50. If we
21 wanted to change the application fees for certificates and
22 registration, that would also take a statutory change.

23 And I think Chris has already mentioned that if we
24 wanted to impose any filing fees or that sort of thing, we
25 believe that we would need a statutory change for that also.

1 So I think most of the other ideas that have been proposed for
2 generating additional revenues, at this point, at least, the
3 majority of it would take a statutory change.

4 COMMISSIONER BRADLEY: Have we availed this agency to
5 any independent auditors or any other entities that maybe could
6 or did serve as a consultant to make a recommendation with
7 respect to this particular issue that we are dealing with here
8 today?

9 MR. MAILHOT: Are you asking if we have been audited
10 by somebody? I'm not sure outside of the Auditor General's
11 office.

12 COMMISSIONER BRADLEY: What the Auditor General's
13 recommendation?

14 DR. BANE: He said that we needed to adjust -- the
15 recommendation was that we needed to look at industries where
16 they were not covering their costs and consider adjusting RAF
17 rates and/or reducing cost. So it was both. It wasn't just
18 increase the RAF rates, but consider reducing the cost for
19 those industries and/or raising the regulatory assessment fee
20 rates to cover the cost. That was in their audit of the
21 regulatory assessment fee process.

22 Now, we haven't asked anyone else. We haven't asked
23 a consultant to come in and advise us on how to either reduce
24 costs or how to seek additional funding.

25 COMMISSIONER BRADLEY: Well -- and I think the

1 Auditor General is probably a good source to answer that
2 question, the question I just asked. So what is the bottom
3 line as it relates to the Auditor General's report?

4 DR. BANE: We responded back to them that we would be
5 looking to continue to reduce our internal cost of regulation,
6 find ways to do things more efficiently, and we would also
7 consider moving forward with regulatory assessment fee
8 increases.

9 We respond to them, and then they will come back
10 later. After they did the report, we had to respond within six
11 months, and we did that. So that report has -- until they come
12 in again, we are fine with the AG's Office.

13 CHAIRMAN BAEZ: Commissioners, any other questions?
14 And I'm wondering if there are any comments from the other
15 participants or presenters at this point, based on what Mr.
16 Mailhot has said.

17 MS. WHITE: I guess the only comment I would have is
18 just because something generates a smaller amount of money
19 don't automatically discount it. I guess I would just say keep
20 your mind open and consider everything.

21 CHAIRMAN BAEZ: And believe me, we are. And I think
22 some of the things that might have been suggested taken in the
23 aggregate, you know, every little bit helps. We are even
24 thinking of a bake sale.

25 COMMISSIONER JABER: A what sale? A bake sale?

1 CHAIRMAN BAEZ: Yes, a bake sale.

2 COMMISSIONER JABER: Are you going to bake some
3 goodies, because I'm not.

4 CHAIRMAN BAEZ: I thought you might. You have got
5 all this time on your hands coming up.

6 COMMISSIONER JABER: Yeah.

7 CHAIRMAN BAEZ: Commissioners, any other questions or
8 comments? Doctor Bane, can --

9 COMMISSIONER JABER: I do.

10 CHAIRMAN BAEZ: Oh, you do? Oh, okay. I'm sorry,
11 Commissioner.

12 COMMISSIONER JABER: Following up on the notion that
13 we may need a statutory change to collect application fees, I
14 was looking at the water statutes as guidance, and I do notice
15 in each section of the statute it says the Commission may
16 accept applications. Let me try to find a good example. Under
17 limited proceedings, for example. But it is like this
18 everywhere in the water statute. "An application for a limited
19 proceeding must be accompanied by a fee provided by," and then
20 it cites to a different section.

21 I wonder if in telecommunications maybe one statutory
22 change that gives the Commission discretion, to establish
23 appropriate fees by rulemaking, is that something that might --
24 that is probably something we should consider. But legally,
25 Chris, can you by statute, by general reference get authority

1 to establish application fees by rulemaking?

2 MS. MOORE: Yes, and that is what they have done in
3 water and wastewater, references to a statute that just puts a
4 cap on it, shall not exceed \$4,500. And the amount of
5 application fee determined by the Commission may not exceed
6 \$4,500.

7 COMMISSIONER JABER: You are talking about 367.145?

8 MS. MOORE: Subsection 2, yes.

9 COMMISSIONER JABER: But in addition to that
10 reference, with each portion of the water statute it actually
11 gives even more specific authority that we can collect fees for
12 specific petitions.

13 MS. MOORE: Right.

14 COMMISSIONER JABER: And my question is in
15 telecommunications rather than have the specific references in
16 each kind of application, maybe just in our general authority
17 we would seek authority to establish application fees via
18 rulemaking.

19 MS. MOORE: Yes, I think you can do that. There
20 probably would have to be some guidance to be based on -- you
21 know, as they do in water and wastewater, it is the capacity of
22 the system. Something like that for telecommunications. Some
23 guidance probably to avoid problems.

24 COMMISSIONER JABER: Let me put the industry on the
25 spot. Is that something that you all would support?

1 MS. WHITE: BellSouth would, that is all I can speak
2 for.

3 MR. WAHLEN: Our comments indicated that that is
4 something that should be explored. I would have to go back and
5 ask specifically. My guess is that it matters a lot about the
6 price, but in general I think we think that is worth exploring,
7 absolutely.

8 COMMISSIONER JABER: And that is why I think the
9 rulemaking may be appropriate, because perhaps the fees will be
10 different pursuant to the kind of proceeding. But it doesn't
11 lend itself to a legislative discussion, maybe it is a PSC
12 discussion.

13 MR. WAHLEN: Yes.

14 COMMISSIONER JABER: Mr. Long.

15 MR. LONG: The FCC maintains that if additional
16 revenues are required that you use the existing mechanism of
17 increasing the RAF percentage and not have application fees or
18 other fees.

19 COMMISSIONER JABER: You would rather we increase the
20 regulatory assessment fees?

21 MR. LONG: Yes.

22 COMMISSIONER JABER: Mr. Rehwinkel.

23 MR. REHWINKEL: Yes. On behalf of Sprint we agree
24 with BellSouth; we think that is something that the Commission
25 should explore. I ultimately believe that any statutory change

1 that you are successful in getting relating to the rate
2 structure, the legislature will not set the structure, they
3 will ask you to do it. So I think that is the most efficient
4 way to do it and most realistic.

5 CHAIRMAN BAEZ: Commissioners, any other questions?

6 COMMISSIONER BRADLEY: Mr. Chairman.

7 CHAIRMAN BAEZ: Commissioner Bradley.

8 COMMISSIONER BRADLEY: I'm looking at the required
9 statutory changes, and it says an increase in the minimum RAF
10 rate requires a change in the statutes.

11 DR. BANE: That's that \$50 fee for any companies
12 having less than so much in revenues, they pay a \$50 fee. It
13 can be no more than 50.

14 COMMISSIONER BRADLEY: Okay. So that is not germane
15 to --

16 DR. BANE: That's different than increasing the RAF
17 rate. That is the minimum fee that the lowest people have to
18 pay, the lowest revenue.

19 COMMISSIONER BRADLEY: Okay. That is the minimum?

20 DR. BANE: Yes, sir.

21 CHAIRMAN BAEZ: Mr. Long, a question, because I think
22 in your comments you made a point that was very interesting. I
23 mean, I think it showed the contrast or the impact of what we
24 do in trying to translate revenues to justify under normal
25 circumstances. Under a RAF rate circumstances to justify a

1 \$1,000 minimum RAF you would need roughly a half a million to
2 \$600,000 of annual revenue. And while I appreciate the point,
3 I guess there is a flip side to that, and I wonder what you
4 think about it. Even though that may work out mathematically,
5 is there a minimum -- among your membership is there a minimum
6 RAF rate, I wonder, that is justified just to be able to do
7 business, and it has got to be something north of \$50.

8 I mean, divorce what it represents in annual revenues
9 and, you know, there is a number that says, you know what, this
10 is a cost of doing business. And it doesn't matter how much
11 money, how much revenues irrespective of, whether it be, you
12 know, \$250, or \$500, or whatever it is, at some point it is
13 really not connected to the annual revenues.

14 MR. LONG: I think I can safely say that all of
15 FCCA's members pay more than the minimum regulatory assessment
16 fee, and I believe that all of FCCA's members paid more than
17 \$1,000 in regulatory assessment fees. So I think if you raised
18 it had to \$1,000, it would not directly impact my membership.
19 I think it would impact several small carriers in the state.
20 And it would be up to you, I think, to analyze it. I mean, I
21 don't represent them, so I don't want to speak out of turn for
22 them.

23 But I think that would be something that you would
24 investigate as to what that impact would be and what the impact
25 on competition would be. How many of them are out there, how

1 many of them are actual viable businesses. I mean, maybe some
2 of them are just holding certificates and doing nothing with
3 them for years. Maybe several of them are apartment complexes
4 that may have \$300,000 in revenues and are perfectly happy with
5 that. I don't know. But I think it would be worthy of
6 investigation before you assess that to find out what that
7 impact would be.

8 CHAIRMAN BAEZ: Thank you. Did you have a question,
9 Commissioner Bradley?

10 COMMISSIONER BRADLEY: Yes. For the purposes of
11 federal income taxes, how is the RAF factored in for tax
12 purposes with the company?

13 MR. MAILHOT: For federal income tax purposes, a
14 company would get --

15 COMMISSIONER BRADLEY: Is it an expense or is it
16 something that is not allowable as an expense?

17 MR. MAILHOT: It should just be an expense, like any
18 other expense for the company. I mean, they should get to
19 deduct it on their tax return.

20 COMMISSIONER BRADLEY: Well, in view of that, does
21 that help any at all?

22 MR. WAHLEN: Well, I'm not sure that how that
23 matters. So is payroll, so is a lot of expenses that are
24 deductible for income tax purposes. The company still has to
25 pay the money in the first instance. It may be a net number,

1 but it is still an increase in cost. So the RAF would look no
2 different to a telecommunications company than additional
3 payroll costs, or additional rent, additional
4 telecommunications costs, whatever utilities, it is just an
5 expense of doing business. It is better than a non-deductible.

6 COMMISSIONER DEASON: But you would agree, though,
7 that the after-tax effect of your 4-1/2 million, depending on
8 the tax rate, would be something less?

9 COMMISSIONER BRADLEY: I'm sorry, I was distracted.

10 MR. WAHLEN: I don't --

11 COMMISSIONER DEASON: I was just getting Mr. Wahlen
12 to agree, though, that the after-tax effect would be something
13 less. He was indicating a \$4-1/2 million increase at the
14 proposed RAF increase, and that the real true out-of-pocket
15 costs would be something less than that after you calculate the
16 tax effect.

17 MR. WAHLEN: I would say from a 10,000 fee,
18 hypothetically, that's correct, it would have a lot to do with
19 the specific tax situation of each particular company and, you
20 know, whether they are paying taxes, whether they are deferring
21 taxes, whether they are, you know, just their specific tax
22 situation. But, theoretically, you're correct.

23 CHAIRMAN BAEZ: Ms. Moore, can you try and walk us
24 through what the next steps are --

25 MR. MORROW: Yes.

1 CHAIRMAN BAEZ: -- or what we can expect?

2 MS. MOORE: The next step would be a staff
3 recommendation to the Commission at an agenda conference,
4 thereafter would be proposal of a rule amendment. And I might
5 mention that from the time of the agenda to the earliest date a
6 rule change could be effective, that is if nobody filed any
7 comments or asked for a hearing, would be another nine weeks.
8 So we are looking, if we went to agenda, September 21st, then
9 it would be the end of November by the time the rule would take
10 effect.

11 CHAIRMAN BAEZ: And I guess speaking of timing,
12 obviously in this latter part of the discussion a lot of
13 alternatives, or combinations of alternatives, have been
14 contemplated, or at least discussed. And at least my
15 recollection of it is that most if not all of them demand some
16 kind of statutory changes. Is there -- for argument sake, once
17 you adopt a rule that increases by whatever amount the RAF fee,
18 how hard is it, or what kind of process is involved in backing
19 out of that, or is the reduction of a RAF the same as the
20 increase of a RAF, I guess, process-wise?

21 MS. MOORE: I think it would be quicker probably,
22 because you probably wouldn't be having workshops and other --

23 CHAIRMAN BAEZ: Essentially the same thing
24 process-wise?

25 MS. MOORE: Yes.

1 CHAIRMAN BAEZ: Okay. And I guess my question to the
2 companies would be this: I mean, obviously a lot of these
3 alternatives, at least the way I see it, there are a lot of
4 timing issues, there are a lot of urgent timing issues, for
5 lack of a better word, that are at play here. However, some of
6 the possible solutions that are not in the traditional mode
7 sort of require an interim period where the realities that the
8 Commission is facing in terms of shortfalls, and so forth,
9 can't be addressed. Now, in my mind that would only serve to
10 make the problems worse as they go forward.

11 But you do realize, or at least we have heard today
12 that the alternatives that have been proposed, while they are
13 good and deserve being explored, they do require some kind of
14 statutory changes. And I'm wondering, I guess, just as a
15 question to consider what the possibilities are of having
16 perhaps a two-phase approach to all of this. And, again, I
17 speak only for myself just out of curiosity, really, that I
18 don't know what kind of assurances, and I don't know what kind
19 of agreements or understandings, but certainly we are all, you
20 know, at least for my money, I'm not interested.

21 This is not a for profit business, obviously. We are
22 trying to meet our obligations to you all among other things.
23 And, frankly, I don't care how we do it. But having said that,
24 it is in my interest to try and find the method and the
25 combination of alternatives that works best for everyone that

1 has to operate here.

2 My question at the end is how amenable -- how
3 possible is this phased approach? I mean, to address it
4 through the means that we have available to us now and then
5 once -- and then pursue alternatives or the ability to use
6 alternatives in terms of legislative changes?

7 MR. WAHLEN: Commissioner, I didn't have a chance to
8 talk with all of our members at lunch, but that is an idea that
9 has been floated. My notes indicate that we have several
10 questions that have been posed to us on specific subjects and
11 that we need to get back with the staff on. And we would be
12 glad to add that to the list, and give the staff the benefit of
13 the association's thinking on that. And if we can't
14 reach agreement on it, then we would encourage our member
15 companies to communicate individually with the staff on that
16 subject. And we do understand the need for speed here. Time
17 is not going to make this --

18 CHAIRMAN BAEZ: Any better. It really isn't.

19 MR. WAHLEN: So we are prepared to work quickly to
20 get some answers on those subjects.

21 CHAIRMAN BAEZ: I appreciate the quick turnaround. A
22 question?

23 COMMISSIONER JABER: Yes. I'm a little confused on a
24 question you posed to staff and the answer you got back from
25 Ms. Moore. So forgive my confusion, but saying that, what I

1 heard Ms. Moore say is that they could come back for the 21st
2 agenda with a rule proposal. And my confusion is this: I'm
3 not ready to entertain that recommendation. And, frankly, I
4 don't think I will be ready September 21st to entertain that
5 kind of recommendation. What I could be ready to entertain is
6 a recommendation that outlines a comprehensive approach to this
7 topic. So that if a rule modification is part of the
8 comprehensive proposal, then so be it. But with questions out
9 there that we want responses to, I don't want to look at a rule
10 modification in isolation. I would much rather look at it in a
11 comprehensive way. And maybe that can be done by the 21st, but
12 what confused me is the response you got that, you know, we
13 could adopt a rule and it could be implemented by November. I
14 don't think -- I am personally not there yet.

15 COMMISSIONER BRADLEY: Well, and I guess, Ms. Moore,
16 I guess it really would all depend -- obviously there are some
17 questions, as Mr. Wahlen pointed out, there are some questions
18 out there that may or may not play into potentially a
19 recommendation. I would expect that they would. I guess we
20 are down to how much response time, unofficially, of course,
21 are we talking about in order to keep all the constituencies,
22 you know, address all the needs. Obviously, I appreciate the
23 Commissioner's reluctance without a more complete picture, a
24 more comprehensive treatment, and I would tend to agree with
25 her. However, I think everybody recognizes as well, the

1 condition doesn't -- it only gets worse the longer --

2 COMMISSIONER JABER: And maybe that could be part of
3 the recommendation, too, Mr. Chairman, where staff says there
4 are five possible strategies and it could be done in phases.
5 And to the degree that Strategy 1, 2, and 3 needs a statutory
6 change, here is some language we would throw out for
7 discussion. And it would be proposed for this coming up
8 legislative session, or, you know, something that has a very
9 clear outline of steps to follow, timing, a comprehensive
10 approach.

11 DR. BANE: My plan was to bring a comprehensive
12 approach, it's not just going -- as part of the recommendation
13 you are going to hear, and by then you will have voted on the
14 agenda -- I mean, not the agenda, on the PSC's proposed budget,
15 because that has to be filed prior to the 21st of September.
16 You will know and will have decided how many internal cuts we
17 can take by that time. That would be incorporated into the
18 recommendation so that it is clear we are continuing to do
19 internal costs.

20 I feel by that time we can have gotten with the
21 industry and put some more meat onto these alternative
22 proposals; the filing fees, raising the minimum, and that at
23 the minimum we could have something at that point for the
24 Commissioners to consider directing staff to move forward with.
25 So it would be more than just coming in and saying we are

1 raising the RAF rate. It would try to address the issues that
2 have been raised today.

3 CHAIRMAN BAEZ: Well, and I guess I would -- and I
4 like that approach. But I think in a practical, in a practical
5 sense that -- and, Commissioner, I would be curious to know
6 what you think about it in a practical sense -- as
7 comprehensive an approach as we would be willing to take, you
8 know, the mere fact that any part of that comprehension
9 involves legislative changes, which as everybody knows are
10 rarely certainties. You know, how much does acceptance by this
11 Commission of one approach, even though it is comprehensive and
12 has phases, et cetera, how much can we bind if only what our
13 intent is to do, but not how much can we deliver, I guess.

14 COMMISSIONER JABER: The best way I can answer that
15 is really just from a personal perspective. If looking at the
16 presentation made by staff in a recommendation that takes into
17 account the responses we get and the level of commitment we
18 get, any increase in RAFs might be dependent on that. That is
19 the best I can do for you right now. In very blunt terms, to
20 the degree I support any rule modification that increases RAFs,
21 the amount of that increase is dependent on how much happens
22 elsewhere.

23 CHAIRMAN BAEZ: On how much can happen elsewhere.

24 COMMISSIONER JABER: How much happens elsewhere. It
25 might be that the industry after listening to today's

1 presentations and listening to the last few weeks there is some
2 sort of approach that folks can live with voluntarily. The
3 last time I checked, we didn't need clear statutory authority
4 to accept something voluntarily, do we?

5 CHAIRMAN BAEZ: Not to my -- well, to the extent it
6 concerns us, I wouldn't disagree.

7 COMMISSIONER JABER: I don't know the answer to that.
8 I guess I just don't want to close the door. There is room for
9 discussion, there is room for dialogue. I don't want to get
10 ahead of ourselves. You know, maybe it is appropriate for
11 staff to come back with a recommendation that has an increase
12 in RAFs of some amount, and maybe not.

13 CHAIRMAN BAEZ: Mr. Rehwinkel.

14 COMMISSIONER BRADLEY: Well --

15 CHAIRMAN BAEZ: Hold on. Commissioner, go ahead.

16 COMMISSIONER BRADLEY: Well, my preference would be
17 for staff and the industry to get together and to come to a
18 conclusion or an agreement within a certain time frame. You
19 know, I detect a willingness on the part of industry to work
20 with staff, and a willingness on the part of staff to work with
21 the industry to resolve this issue. I just always believe that
22 it works best when --

23 CHAIRMAN BAEZ: And I agree with that.

24 COMMISSIONER BRADLEY: -- that, in fact, happens.

25 CHAIRMAN BAEZ: And I think I would sense that

1 certainly Doctor Bane and certainly that the industries still
2 maintain that intention. I don't think this is the last that
3 if not us, but certainly the people on the other side of the
4 table, or of the room, rather, have heard of this. I have no
5 doubt but that conversations and discussions will continue.
6 And maybe that becomes the source of the recommendation or not.
7 Go ahead, Mr. Rehwinkel, I'm sorry I cut you off.

8 MR. REHWINKEL: No, that is quite all right. Thank
9 you.

10 Commissioner, Sprint strongly supports the consensus
11 effort of the FTIA, and we will continue to work to build
12 consensus and bring that to you and work with your staff on an
13 expedited basis. Since this issue emerged, I have listened,
14 and I have been educated a great deal by staff. There are some
15 realities here that I understand based on my role today on
16 behalf of Sprint, plus my experience with the Commission and
17 with the Public Counsel's Office.

18 Having said that, where I have kind of migrated from
19 is this revenue requirement and rate structure issue, I still
20 think there is a revenue requirement opportunity out there. I
21 think there are some options that I want to work with the FTIA
22 to suggest to the Commission. I think it would be best if we
23 brought that forward in a consensus fashion. But the more I go
24 through this process, the more I'm firmly convinced that the
25 rate structure issue is fundamentally broken.

1 I think whatever linkage there was between the
2 assessment basis back into the pre-1995 days and the way the
3 Commission exercises its regulatory obligations is totally
4 broken. I go down and look at the lists of tasks that the
5 Commission staff prepared, and it looks to me like 12 out of 19
6 of those are company-to-company issues. And I cannot dispute
7 that a significant portion of the Commission's time is taken up
8 by telecommunications matters. That is an inescapable fact.

9 You probably see us marching around in the back of
10 the room huddling and trading comments when we hear the
11 feedback we are getting from the bench. Everything is
12 anecdotal about what is driving this. I think there needs to
13 be some more rigorous study, and I think that Commissioner
14 Bradley hit the nail on the head. There is probably a better
15 way to study and figure out what are the cost drivers in this
16 business. But I do believe fundamentally that the old
17 assumptions, the foundation upon which the rate structure is
18 based today no longer exists.

19 So, I know it is not something that can be addressed
20 overnight, it is something that the industry needs to work with
21 the companies on. I have expressed to some of the
22 Commissioners in the past that we haven't had to do this in a
23 long time. We certainly haven't had to do this in the
24 post-1995 era. Certain things have happened external to what
25 we do here today that have exposed this issue to us, and we are

1 all wrestling with it here today. It's not something I think
2 that can be done overnight. I don't think any side is right or
3 wrong on this thing, we just need to work a little bit closer
4 and figure out what is the right way to do it. And I just
5 commit to you on behalf of Sprint and working through the FTIA
6 that we will work with you on that.

7 We have been heard, and I think the Commissioners
8 have been heard in volumes, not only today but over the past
9 few weeks. And we are very pleased that you have listened to
10 us, and we have had an opportunity to convey some of the
11 concerns we have. So, thank you.

12 CHAIRMAN BAEZ: Thank you, Mr. Rehwinkel.

13 Commissioners, or if there is nothing further, I
14 don't know if there are any other questions, or we have to go
15 over some next steps.

16 COMMISSIONER DEASON: I just I have a question.

17 CHAIRMAN BAEZ: Commissioner Deason.

18 COMMISSIONER DEASON: Everyone has indicated that
19 this is not going to correct itself, and that time is of the
20 essence. And my concern is we need to move forward. But at
21 the same time I want to give everyone ample opportunity to take
22 what was said today and hopefully act upon it in a cooperative
23 and constructive way. I want to give ample time for that to
24 happen. But at the same time, time is of the essence, and we
25 need to move forward as quickly as possible. So where is the

1 middle ground and what is the plan?

2 CHAIRMAN BAEZ: And I think before we got into some
3 side discussion, I was in the process of asking Ms. Moore and
4 the companies as well to try and get a sense of -- you know,
5 Mr. Wahlen, you have indicated that you have some responses
6 that you have to cull together from your membership, and that's
7 fine. If you have some kind of estimate as to how soon and how
8 long you will be meeting on these responses and issues, because
9 I think you should -- I take Commissioner Deason's comments to
10 heart, and I actually share them.

11 You know, this really isn't going to correct itself.
12 And I think we all owe it to each other to try and resolve
13 this, or at least find some way of moving forward as well as
14 looking toward the future to resolve it in a more equitable and
15 a more rational way, as well. But we need to do this as soon
16 as possible. I'm not trying to -- I know marshaling, you know,
17 several members is not an easy thing, but I would urge your
18 best efforts on it.

19 MR. WAHLEN: We will have a meeting of our regulatory
20 committee as quickly as we can. Whatever we ultimately send to
21 the Commission has to be approved by the board. That is
22 usually a 10 to 14-day process. I think in the meantime,
23 though, we can be in informal discussions with the staff. I
24 think Mr. Rehwinkel is right, we have heard a lot today, and
25 there is lots of ideas out there. And we have communicated

1 well with staff on these things, and I think we will continue
2 to do that even before our formal document is turned in.

3 CHAIRMAN BAEZ: I appreciate your efforts. And, Ms.
4 Moore, I guess let's --

5 COMMISSIONER BRADLEY: Mr. Chairman, I would like to
6 say something before we get to staff.

7 CHAIRMAN BAEZ: Oh. Okay. Commissioner Bradley.

8 COMMISSIONER BRADLEY: This has been a very
9 interesting discussion today, and I have said or thought all
10 along that -- and I agree with what Mr. Rehwinkel -- I agree
11 with his comments wholeheartedly. And what my interpretation
12 is is this: With the passage of the Telecommunications Act
13 that effectively deregulated telecom, what that did was to
14 change the dynamic or the process as it relates to the
15 regulatory process. Which means that -- I don't think there is
16 anyone here who can argue against the fact that the regulatory
17 process has mutated into something that is different because of
18 deregulation.

19 So the question is this, in my mind: How do we put
20 forth and fund a system that allows us to deal with the changes
21 that have occurred as a result of the statutory change? And I
22 think that probably we have not adequately addressed that as an
23 issue. If we had, I think that maybe we would not be having
24 this very good discussion that we are having here today. There
25 is no doubt in my mind that the role of the Public Service

1 Commission is vital, but it has changed. So how do we address
2 the needs that have come about as a result of those statutory
3 changes so that we can avail the public and the company of the
4 expertise that exists here at the Public Service Commission to
5 put forth in a very rational and fair means regulatory action
6 that allows us to continue to have a smooth transition based
7 upon the statutory changes?

8 CHAIRMAN BAEZ: And I think something you said there
9 struck a chord, Commissioner. You know, we talk about
10 competitive choice and all of that, and that is probably
11 something that we don't have available to us as an agency
12 because of the way the statutes are now. And I think it is to
13 everybody's advantage to commit to trying to make that
14 statutory framework a little bit more flexible in order for the
15 agency to meet its requirements in order to do its work. That
16 is just not available right now.

17 So the question is do you work with what you have got
18 or do you wait until you have got something else to work with.
19 And, you know, to me that is just a question that everyone is
20 going to have to answer on their own given the circumstances
21 and however the circumstances are getting better or worse in
22 anyone's opinion. So, I don't think -- I haven't heard any
23 great disagreement that something needs to be done, it is just
24 a question of what.

25 I think Mr. Rehwinkel's comments are interesting in

1 the fact that we have moved forward, we are in an arena of
2 regulation where, in essence, everyone involved is sort of
3 making it up as they go along because the changes come so fast
4 and furious. And yet our funding structure hasn't changed in,
5 I don't know, 20 years or however long it was. And I can't
6 remember the last time there was a RAF adjustment.

7 So, normally that is something to be proud of. Right
8 now there are consequences to that, and we need to address them
9 as best we can with what we have right now, and this is just my
10 opinion, with a commitment to working toward restructuring it
11 in a more rational way later.

12 Commissioner Davidson.

13 COMMISSIONER DAVIDSON: Thank you, Chairman. And I
14 agree with a lot of what has been said today, but not
15 everything. I think in terms of where I am on this issue, I'm
16 closer to Commissioner Jaber, and I agree with Mr. Rehwinkel's
17 comments. And I appreciate his perspective from having been on
18 the inside and now being on the outside and served at the
19 Office of Public Counsel looking at the issue from all
20 vantages.

21 At this point I think everyone agrees there has not
22 been a comprehensive approach to how to address all of these
23 issues. We don't know what all the cost drivers are. We have
24 not comprehensively viewed how to cut cost or shift cost, how
25 to increase revenue from other sources, how to perhaps reduce

1 the burden on staff or shift some of those burdens to purely
2 the private sector. And it may be ultimately that some type of
3 RAF adjustment is necessary after a comprehensive analysis
4 shows that all of these other avenues have been exhausted.

5 When this issue was first raised, it came to my
6 office and perhaps to the others as we are going to have to
7 increase RAFs. I have inquired, talked to staff, and I
8 personally am not satisfied that all the other possible avenues
9 out there for cutting or shifting cost, for increasing
10 revenues, or for reducing or shifting the regulatory burden
11 have been addressed.

12 I agree wholeheartedly with Commissioner Jaber, and I
13 think other folks have agreed that we need a comprehensive
14 plan, and in that plan we need to really sort of assess what
15 can we do in-house, for what do we need statutory changes.
16 Personally, I'm not prepared to vote on a specific
17 recommendation prior to seeing that comprehensive plan. It may
18 be that the recommendation gets voted out without a
19 comprehensive plan, but I, in all likelihood, won't be able to
20 join in that.

21 I am very much concerned about a proposal to increase
22 RAFs, not because we are not facing budgetary issues, we are.
23 In large part we are facing this issue because trust fund
24 dollars were taken out of the trust fund and used for general
25 revenue purposes. That's something that is outside of our

1 control. There is a whole political process out there that
2 has, in part, caused this issue. But that doesn't necessarily
3 mean that we go back and then charge the industry more. In my
4 view, that will send a signal that, hey, this industry has got
5 some cash flow, they can pony up, let's have them pay some
6 more. And we could face the exact same situation again. That
7 doesn't necessarily help us because we need to come up with --
8 we need to operate in the black. Certainly I agree with that
9 wholeheartedly. But I don't know that increasing RAFs is the
10 best way to get there. And at this point I don't know that it
11 is -- I don't know that it is the best way or the only way.

12 Philosophically, I am fundamentally opposed to RAF
13 increases. I understand that we need to fund ourselves, but
14 what a RAF, in essence, is, it's a tax. We can call it a fee,
15 we can call it something else, but it is a tax. It may be a
16 direct tax, or an indirect tax, but in one way or another it
17 constitutes a transfer of income, and we have estimated here
18 that it is about \$4.8 million. It represents a transfer of
19 income from the private sector to government.

20 It either takes dollars out of potential investments,
21 or out of potential distributions to shareholders, or out of
22 hands of consumers through potential price increases. It comes
23 from somewhere. This 4.8 million is just not going to
24 magically appear. And, again, I don't want to ignore the fact
25 that we need that money. But what we are talking about is a

1 substantial transfer of wealth from the private sector to
2 government.

3 I, for one, cannot and will not support that unless
4 and until I see a really comprehensive strategy. And what does
5 that mean in the short run? I don't know, Commissioner Deason.
6 I mean, we have got to deal with that, but it may be that some
7 RAF increase I could support when I see that. All I have
8 heard -- and I don't mean to be overly critical of staff, but
9 all I have heard is, oh, we are making efforts to deal with
10 this in terms of FTEs. And I understand that. But there is a
11 lot more to the equation than perhaps cutting some employees.

12 What I haven't seen yet is a comprehensive strategy.
13 And this is something that could have been worked on for the
14 past year from all the different, sort of, agency heads and
15 directors. All right, from some of the minor things, such as
16 copying costs. Can we increase the per page cost to 25 cents a
17 page? Can we require companies, for example, to supply all the
18 copies in every docket, which is what we did in the triennial
19 review. We had the parties supply those. I mean, there are
20 little things we can do to cut costs and other big things. And
21 when we do the little and the big comprehensively across
22 anybody involved in telecom, what is the bottom line for that,
23 what is going to be sort of the cost savings. I have no doubt
24 that can be done, I just haven't seen it yet. So, I just
25 wanted to put that position on the record.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24 that we are involved in. So, I mean, I haven't quite figured
25 out if we are increasing RAFs or dealing with a budget

1 shortfall here, and I think that is another question that needs
2 to be answered.

3 DR. BANE: It is really a combination, Commissioner.
4 We do have a budget shortfall. We had one in water and
5 wastewater. They had a deficit. We have addressed that.
6 Telephone had a deficit. It's true that the trust fund, the
7 cushion we had in the trust fund that has been transferred out
8 has left us in a situation so we don't have any cushion. But
9 to be accountable under the statute, even if we had a trust
10 fund sitting there, we would need to address the shortfall
11 issue because the statute requires that the industry cover the
12 cost of their regulation.

13 And, again, that can be done in two different
14 approaches. One is to reduce the cost of regulating, and the
15 other is to increase the revenues, or a combination of those
16 two. But, no, it is true the trust fund gave us a cushion so
17 that even if an industry was running a deficit, it gave us
18 flexibility to maybe ride it out. We don't have that cushion
19 there now, which is why we have no alternative. But they are
20 two separate pieces.

21 COMMISSIONER BRADLEY: Okay.

22 CHAIRMAN BAEZ: Commissioners, if there are no other
23 questions or comments, I think we can -- Mr. Wahlen.

24 MR. WAHLEN: I just have one more thing, and that is
25 to point out that over lunch the staff gave us a very good

1 analysis of the FCC filing fees which shows that they have used
2 great effort, effectiveness, and efficiency in their duties,
3 and we appreciate that.

4 CHAIRMAN BAEZ: That and the number 55 is relatively
5 prevalent. I wonder. I don't know why.

6 Thank you all for your input. Staff, thank you for
7 putting this together. It was very educational.

8 Commissioners, thank you for your time. Have a good
9 afternoon, everyone.

10 (The workshop concluded at 2:40 p.m.)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF FLORIDA)
 :
COUNTY OF LEON)

CERTIFICATE OF REPORTERS

WE, LINDA BOLES, RPR, and JANE FAUROT, RPR, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that we stenographically reported the said proceedings; that the same has been transcribed under our direct supervision; and that this transcript constitutes a true transcription of our notes of said proceedings.

WE FURTHER CERTIFY that we are not relatives, employees, attorneys or counsel of any of the parties, nor are we relatives or employees of any of the parties' attorneys or counsel connected with the action, nor are we financially interested in the action.

DATED THIS 25th day of August, 2004.

Linda Boles
LINDA BOLES, RPR
(850) 413-6732

Jane Faurot / ss
JANE FAUROT, RPR
(850) 413-6734