

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In re: Complaint by BellSouth Tele-)
Communications, Inc., Regarding)
The Operation of a Telecommunications)
Company by Miami-Dade County in)
Violation of Florida Statutes and)
Commission Rules)

DOCKET NO. 050257-TL

**DEPOSITION OF PEDRO J. GARCIA
DATED MAY 21, 2003**

FINAL EXHIBIT NO. 16

3 of 29

DOCUMENT NUMBER-DATE

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IN THE CIRCUIT COURT OF THE
11th JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA (03)

BELLSOUTH TELECOMMUNICATIONS,
INC.,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political
subdivision of the State of
Florida,

Defendant.

2601 South Bayshore Drive
Miami, Florida
May 21, 2003
9:03 a.m.

DEPOSITION OF PEDRO J. GARCIA

Taken before LANCE W. STEINBEISSER,
Registered Professional Reporter and Notary Public
in and for the State of Florida at Large, pursuant
to Notice of Taking Deposition in the above cause.

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APPEARANCES:

MITCHELL R. BLOOMBERG, ESQ. and
NATALIE CARLOS, ESQ.,
of the firm of ADORNO & YOSS, P.A.
on behalf of the Plaintiff

DAVID STEPHEN HOPE, and
CYNJI A. LEE,
Assistant Miami-Dade County Attorneys
on behalf of the Defendant

Also present:

Sharon R. Liebman, Esq., BellSouth
Jennifer Sasha Kay, Esq., BellSouth

WITNESS EXAMINATION PAGE

PEDRO J. GARCIA

BY MR. BLOOMBERG 4

E X H I B I T S

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EXHIBITS

FOR IDENT.

1	8
2	17
3	18
4	21
5	27
6	41
7	44
8	46
9	49
10	58
11	65
12	81
13	82
14	104
15	106
16	107
17	110
18	125
19	127
20	128
21	130
22	132
23	137
24	141
25	144
26	153
27	159
28	162
29	163

(All exhibits are attached hereto.)

1 (Ms. Carlos and Ms. Lee were not
2 present.)

3 Thereupon--

4 PEDRO J. GARCIA
5 was called as a witness and, after having been
6 first duly sworn, was examined and testified as
7 follows:

8 - - - - -
9 DIRECT EXAMINATION

10 BY MR. BLOOMBERG:

11 Q. Would you tell me your name, please,
12 sir.

13 A. Pedro J. Garcia.

14 Q. What is your occupation?

15 A. Chief of telecommunications of the
16 Miami-Dade Aviation Department.

17 Q. How long have you held that position?

18 A. About two years, give or take a couple
19 months.

20 Q. How long have you been with the County?

21 A. About 15 years.

22 Q. Take me through your positions with the
23 County.

24 A. I started as a Telecommunications
25 Engineer III which is a senior position. The

1 responsibilities were to design and project manage
2 telephone systems for county-owned buildings. We
3 did this countywide for the Information Technology
4 Department.

5 Then I was promoted to -- about four
6 months later I was promoted to the supervisor
7 position for the engineers that did that same kind
8 of work that I was doing, and I basically stayed in
9 that position for the rest of 12 years or so until
10 I came to Miami Aviation Department.

11 Q. Before you became employed by the
12 County, how were you employed --

13 A. I worked for BellSouth or Southern Bell.

14 Q. -- at that time?

15 A. At the time for about 13 and a half
16 years.

17 Q. And obviously your educational
18 background is an engineer?

19 A. I'm an electrical engineer, yes, sir,
20 and I have a professional engineering certification
21 from the State of Florida.

22 (Ms. Carlos entered the conference
23 room.)

24 Q. Tell me what your general duties are as
25 chief of the telecommunications department. What's

1 the correct title?

2 A. Miami-Dade Aviation Department, MDAD.

3 Q. Chief of telecommunications?

4 A. Right.

5 Q. Tell me what your general duties are.

6 A. My responsibilities include the
7 telecommunications side, plus. By that I mean the
8 IT, information technology, under Maurice Jenkins,
9 my boss, is divided under two sections, the
10 information systems which is the data application
11 side and then the telecommunications side.

12 My responsibilities include providing
13 the telephone service, the network connectivity for
14 all the devices and applications, the public
15 address system, maintenance at the airport
16 terminal, what we call the FITS, which is the
17 monitors that you see for the airlines to display
18 their flight information, and also the CUTE which
19 is the Common Used Terminal Equipment, which is the
20 system the airlines use, the common equipment or
21 the common system they use to get the reservations
22 to produce the boarding passes and bag tags and
23 things like that, the wireless equipment, the
24 videos that they use, the radio, 400/800 megahertz,
25 and pagers, beepers, cellular phones for the MDAD

1 employees, you know, Miami-Dade Aviation employees.

2 Q. How many people are in your unit, how
3 many people total?

4 A. About -- I have about 18 people or so
5 reporting to me through two supervisors. But we
6 have a subcontractor, NextiraOne, which has about
7 36 people employed, and they basically report to
8 us. So it's like an outsource to perform the
9 duties that we don't have the staff to do. They do
10 it for us.

11 Q. And they report to you?

12 A. They basically -- yeah, you can -- they
13 report to me.

14 Q. Through --

15 A. Basically from me up the ladder.

16 Q. To whom do you report?

17 A. I report to Maurice Jenkins who is the
18 manager of the information systems and
19 telecommunications.

20 Q. Is there somebody on your level on the
21 other side of the department?

22 A. On the other side of Maurice is Carlos
23 Garcia who is in information systems.

24 Q. He's at your level?

25 A. He's my counterpart.

1 Q. On the information --

2 A. On the information systems side, right.

3 Q. And to whom does Maurice report?

4 A. Maurice reports to an assistant
5 director, Bobbie Phillips.

6 (Plaintiff's Exhibit 1 was marked for
7 identification.)

8 BY MR. BLOOMBERG:

9 Q. Let me show you what's been marked as
10 Exhibit 1 for the purpose of deposition which is
11 the copy of the Notice of Taking Deposition, and as
12 you can see on the front page, it asks for the
13 representative of the County with knowledge about
14 certain areas.

15 Let me ask you to turn over to Exhibit A
16 which is two pages and ten categories. I would ask
17 you first have you seen that before?

18 A. Yes.

19 Q. And you understand that you've been
20 designated by the County as the person who can
21 answer questions in these areas?

22 A. Yes.

23 Q. Are there any of these areas, any of
24 these subject matters by which you feel you cannot
25 answer questions?

1 A. Seven, eight and nine, unless you give
2 me more information, I'm not sure what they mean.
3 I probably can address all the issues depending how
4 deep you go into them. My memory can only go so
5 far.

6 Q. By the way, what is Mr. Jenkins'
7 background? What is his training, if you know?

8 A. I think he -- well, he has a Bachelor's
9 Degree from the University of Miami in business
10 administration.

11 Q. Okay.

12 A. And to the best of my knowledge, he's
13 been at the airport working on the -- for several
14 years working in the information systems area.

15 Q. Do you know a person by the name of
16 Guelsys Coplan?

17 A. Guelsys Coplan, yes.

18 Q. And who is she?

19 A. She works -- her supervisor is Maria
20 Perez who reports to me.

21 Q. So she's a County employee?

22 A. She's like a customer service
23 representative. Yes, she's a County employee.

24 Q. And Ben Tevis.

25 A. Ben Tevis is a supervisor for NextiraOne

- 1 in the voice area.
- 2 Q. He is an Nextira employee?
- 3 A. Right.
- 4 Q. Dennis Rochester?
- 5 A. Dennis is a technician for NextiraOne in
6 the voice area.
- 7 Q. Barbara Blanis? Blanco?
- 8 A. Barbara?
- 9 Q. Blanis. I can't read my handwriting.
10 Is there a Barbara that works at the airport?
- 11 A. Barbara that works with Guelsys
12 Coplan -- she does cellular phones and --
- 13 Q. What is her last name, do you know?
- 14 A. I know her name. I just --
- 15 Q. Barbara Altamira?
- 16 A. Altamirano, right.
- 17 Q. And she's a County --
- 18 A. She's a County employee.
- 19 Q. Camillo De Pedro?
- 20 A. Pedro De Camillo is the manager for the
21 NextiraOne.
- 22 Q. And Maria Perez you told me --
- 23 A. Is the supervisor for the customer
24 service unit.
- 25 Q. Lorraine C. Jones?

1 A. Jones, she's another customer service
2 rep.

3 Q. The same level as Guelsys?

4 A. Same level as Guelsys.

5 Q. County employee?

6 A. County employee.

7 Q. Henry Sheffield?

8 A. Henry Sheffield -- it escapes me right
9 now. I don't know exactly all the names of some
10 of the techs in NextiraOne, but he's not a County
11 employee, to my knowledge.

12 Q. Okay. Ray Delerme?

13 A. Delerme. He's NextiraOne.

14 Q. Julio Or --

15 A. He's a supervisor for NextiraOne.

16 Q. You mentioned these customer service
17 representatives that work for the County. What do
18 they do, do you know?

19 A. They receive -- they generate the work
20 orders to do installation for -- and in that needed
21 telephone service, network service. They receive
22 the bills from NextiraOne and they make sure -- the
23 bill's to be made through NextiraOne for work that
24 they perform on our behalf, and they check the
25 bills and they make sure that everything is correct

1 and they forward it up the ladder for approval.
2 They interface with the users of the airport of
3 services and if they have complaints, they try to
4 resolve them.

5 Q. All right. Is there some kind of
6 requirement that you're aware that the County --
7 and I'll use the County or that MDAD have some sort
8 of authorization from the Florida Public Service
9 Commission to provide telecommunications services
10 to people at the airport?

11 A. There is no explicit authorization that
12 was given from the P.S.C. to the County to provide
13 that service. However, we have interpreted the
14 P.S.C. rulings -- I mean the Florida Statutes that
15 pertain to this area to mean that the airport has a
16 right to provide STS services without any
17 authorization.

18 Q. So I guess the answer to my question,
19 let me see if I understand your answer, is that the
20 County has decided that they don't need
21 authorization from the P.S.C. --

22 MR. HOPE: Objection to form.

23 Q. -- is that correct?

24 A. The County has interpreted the Florida
25 Statutes as they pertain to this area to mean that

1 the airports are exempt from any explicit
2 authorization to perform STS services.

3 Q. What does STS mean?

4 A. It means Shared Tenant Services.

5 Q. What does that mean?

6 A. Which means that provisioning of
7 services -- of telecommunications services to
8 tenants of the airport.

9 Q. So STS is Shared Tenant Services?

10 A. Shared Tenant Services.

11 Q. All right. So back to my question.

12 Has the County interpreted the Florida
13 law to mean that it does not need explicit
14 authorization from P.S.C.?

15 A. Yes, sir.

16 Q. Who, to your knowledge, has made that
17 determination?

18 A. It was made by the gentleman sitting on
19 my left.

20 Q. The counsel?

21 A. The counsel and basically all the
22 management, Maurice Jenkins and the management of
23 the airport and myself.

24 Q. By the way, does Miami-Dade Aviation
25 Department provide similar services at other

1 airports within Dade County?

2 A. The airports that Miami-Dade owns?

3 Q. Right.

4 A. Specifically Opa-Locka and Tamiami we
5 provide the same services, and those airports are
6 owned by Miami-Dade County.

7 Q. Are there any airports within Miami-Dade
8 County within the geographical boundaries of the
9 County that the County does not own?

10 A. As far as I know, the airports are owned
11 by Miami-Dade County, unless there's an obscure
12 landing strip which I'm not aware of.

13 Q. And we won't discuss those.

14 In other words, the County provides
15 these services at every airport it owns --

16 A. At two of the airports.

17 Q. At two of the airports.

18 A. The other two just have independent
19 telephone systems and they're connected to
20 BellSouth for telecommunications. We have a direct
21 correction via T1 to two of those airports in which
22 we provide voice services and network services from
23 MIA connected to the satellite system that they
24 have at those airports.

25 Q. At Opa-Locka and Tamiami?

1 A. At Tamiami, right.

2 Q. By the way, we've discussed already and
3 we've used the phrase telecommunications services,
4 telephone services. What are telephone
5 communications, so we have an understanding? Tell
6 me -- wait. Let me finish.

7 Tell me how you define the term
8 telecommunications services.

9 A. The industry itself -- sometimes it's a
10 gray area of what is telecommunications and what is
11 telephone services. To me, as far as this
12 conversation goes, I take telecommunications to
13 mean voice and network transmission. If we're just
14 talking about the voice side, it would be called
15 voice services, telecommunication, both the voice
16 services or the telephone and the network
17 transmission, which is the network that goes where
18 you plug in your PCs.

19 Q. My e-mails and so forth?

20 A. That's right.

21 Q. So you would agree with me, wouldn't
22 you, that the County provides telephone services at
23 these airports?

24 MR. HOPE: Objection. Form.

25 A. Yes.

1 Q. All right. Let me make a point.

2 There may be two kinds of objections
3 here today.

4 A. I can -- I didn't hear what you said.

5 MR. HOPE: I just said objection to
6 form.

7 Q. Right.

8 A. That means what?

9 Q. There are two kinds of objections here
10 at a deposition. One is an objection to the form
11 of the question or other objections where you can
12 go ahead and answer the question. The only time
13 you shouldn't answer the question is if your lawyer
14 says I object for whatever reason, don't answer the
15 question.

16 A. Okay.

17 Q. If he just objects, he's objecting to
18 preserve the record.

19 A. Okay. So can you repeat the question?

20 Q. I'll repeat the question.

21 Does the County provide telephone
22 services to customers at airports in Dade County?

23 A. Yes, sir.

24 Q. Does the County provide
25 telecommunications services, using your definition,

1 to customers at airports within Dade County?

2 A. Yes, sir.

3 Q. Has your department had any
4 communications with the Public Service Commission
5 about the requirement or nonrequirement of
6 receiving authorization from the Public Service
7 Commission to provide such services?

8 A. We had some communication in the sense
9 of we started the process to obtain an STS license
10 from the Public Service Commission on behalf of the
11 airport to provide those services and then the
12 process was never completed.

13 (Plaintiff's Exhibit 2 was marked for
14 identification.)

15 BY MR. BLOOMBERG:

16 Q. Let me show you what's been marked as
17 Plaintiff's Exhibit No. 2 for the purposes of the
18 deposition and ask if you recognize that document.

19 A. Yes.

20 Q. What is it, please?

21 A. This is a -- seems to be a list of the
22 tenants at the airport that we provide services
23 to --

24 Q. Okay. And --

25 A. -- telecommunications services or either

1 voice or data or both.

2 Q. And it's attached to an e-mail what
3 appears to be an e-mail from Pedro Garcia to
4 rmoses@psc.state.fl.us; correct?

5 A. Yes.

6 Q. Did you prepare that list?

7 A. This is a form that we keep. Obviously
8 we need to know who our customers are, and there
9 was a request by Mr. Moses to comply with.

10 Q. And you responded to Mr. Moses?

11 A. We responded.

12 (Plaintiff's Exhibit 3 was marked for
13 identification.)

14 BY MR. BLOOMBERG:

15 Q. And the request, if you take a look at
16 Exhibit 3, ask you first tell me whether you
17 recognize Exhibit 3.

18 A. Okay.

19 Q. Do you recognize Exhibit 3?

20 A. Yes.

21 Q. Is Exhibit 3 Mr. Moses' request for that
22 information, a customer list?

23 A. Yes, I believe this was the -- yes, this
24 was a request they sent us.

25 Q. All right. Now Mr. Moses' request,

1 Exhibit 3, the second paragraph of the request,
2 Mr. Moses' e-mail says therefore, any services
3 provided to entities such as concessions stands,
4 restaurants or hotels would be outside of the
5 exemption, and certification would be required
6 before telephone service can be provided.

7 Do you see that?

8 A. Yes.

9 Q. If you look at Exhibit 2, are there any
10 concessions stands to whom the County provides
11 telephone services or offers telephone services?

12 A. Yes, there's some -- there seems to be
13 some concessions here.

14 Q. Okay. Cafe Versailles, the ice cream
15 place --

16 A. Cafe Versailles, Duty-Free, et cetera.

17 Q. Those would clearly not be airlines?

18 A. That's right.

19 Q. Did you have a discussion with Mr. Moses
20 at any time or anybody with the P.S.C. concerning
21 the P.S.C.'s position that concessions stands,
22 restaurants, hotels would need your certification
23 before you could provide telecommunications
24 services to those entities?

25 A. No, we did not.

1 Q. You just felt he was wrong?

2 A. No. He requested from us a list of
3 entities, and we provided that.

4 Q. These two e-mails, was that the sum and
5 substance of the communication?

6 A. As far as I remember, that was it.

7 Q. And you mentioned the process of
8 applying. Was that before or after these e-mails?

9 A. This was, like, two years ago. It was
10 at the beginning when I started working for the
11 aviation department.

12 Q. Were you personally involved in any
13 discussions concerning whether or not there was a
14 certification requirement from the P.S.C.?

15 A. Yes, we had conversations, Maurice
16 Jenkins and counsel and other people.

17 Q. And you were involved in some of those
18 conversations?

19 A. Yes.

20 Q. Do you agree or do you disagree with
21 Mr. Moses' statement in his e-mail that services
22 provided to entities such as concessions stands,
23 restaurants or hotels would be outside of the
24 exemption, and certification would be required?

25 A. I think this is a -- I read the Florida

1 Statutes, and this is an interpretation of
2 Mr. Moses as to the Florida Statute intent, and I
3 respect his opinion, but it's not what the Florida
4 Statutes verbatim, what it says.

5 Q. Have you had the opportunity to review
6 and read at any time the Florida Administrative
7 Code?

8 A. I'm not sure about that name. I
9 don't -- it doesn't ring a bell to me.

10 Q. Let's mark that as Exhibit 4, please.
11 (Plaintiff's Exhibit 4 was marked for
12 identification.)

13 BY MR. BLOOMBERG:

14 Q. Let me show you what's been marked as
15 Plaintiff's Exhibit No. 4 for the purposes of the
16 deposition which is a copy of the Florida
17 Administrative Code, Annotated, Chapter 25-24 and
18 ask have you ever seen that before?

19 A. Yes, sir.

20 Q. Is that one of the things you looked at?

21 A. Yes.

22 Q. And do you have any training as a
23 lawyer?

24 A. Any what?

25 Q. Training as a lawyer.

1 A. No, sir.

2 Q. Now, the first sentence of this
3 regulation says that airports are -- essentially
4 I'm paraphrasing -- airports are exempt from other
5 STS rules due to the necessity to ensure safe and
6 effective transportation of passengers and freight;
7 fair paraphrase?

8 A. Yes.

9 Q. The second sentence says the airport
10 shall obtain a certificate as a shared tenant
11 service provider before it provides shared local
12 services to facilities such as hotels, shopping
13 malls and industrial parks.

14 Do you see that?

15 A. Yes, I see it.

16 Q. And are you providing facilities, shared
17 local services to facilities such as hotels, shops
18 and so forth?

19 A. We're not providing service to any
20 shopping malls.

21 Q. Hotels?

22 A. We're providing service to hotels --
23 there's a management company that manages the hotel
24 and it's a pass-through situation. We're not
25 making any profit from that.

1 Q. So is that why you determined you don't
2 need a certificate?

3 A. It was determined that we didn't need a
4 certificate based on the overall interpretation of
5 this paragraph. We're now providing services
6 within the airport. We're not going outside to
7 shopping malls or to outside hotels or any outside
8 the airport property, which belongs to Miami-Dade
9 County.

10 Q. And the hotel belongs to whom?

11 A. The hotel building belongs to Miami-Dade
12 County, and we have a management company managing
13 the operation.

14 Q. You mentioned that you started the
15 process of applying for a certificate at some
16 point?

17 A. Yes, sir.

18 Q. Who decided to apply? Who decided you
19 needed to apply?

20 A. I don't believe it was anybody in
21 particular. It was something that it was just
22 decided to -- let's do it -- at the time we were
23 engaged in purchasing the infrastructure from the
24 service provider NextiraOne which was -- they were
25 the owners of all the infrastructure at the time.

1 That was three years ago.

2 They owned all the telephone switches,
3 the wiring, the network equipment. They owned
4 everything and we were basically leasing from them
5 that equipment and we were paying them as customers
6 before the service provision to everybody in the
7 airport, both STS customers and Miami-Dade Aviation
8 Department staff.

9 So as of February of 2002 we concluded
10 negotiations with them to purchase all of that from
11 them and then at that point we became owners of the
12 equipment and, therefore, we were actually the
13 service providers from that point on. Before that
14 it was them. So that at the time it was considered
15 that -- perhaps it was explored and, you know,
16 whether we should get a license or not for STS
17 provisioning and so forth.

18 Q. So as I understand it, before the sale,
19 the Nextira sale, the decision was that Nextira
20 was -- actually the County's perspective was that
21 Nextira was the service provider?

22 MR. HOPE: Objection.

23 A. Not from the County's perspective. It
24 was the service provider.

25 Q. So therefore, you did not need a

1 certificate?

2 A. We were not providing the services.

3 Q. Now the County is providing the
4 services; is that correct?

5 A. Now the County, yes, is providing the
6 equipment. We own the equipment.

7 Q. You own the equipment and Nextira is a
8 subcontractor?

9 A. Is a subcontractor.

10 Q. Is it still your position now that the
11 County does not need a certificate?

12 A. It was -- the position of the Miami-Dade
13 Aviation Department at this time is that the
14 airport is exempt from obtaining a certificate.

15 Q. All aspects, regardless of who the
16 end-user is, the airport is exempt from obtaining a
17 certificate; is that correct?

18 MR. HOPE: Objection to form.

19 A. It's exempt because the tenants are
20 located in the airport property and the airport
21 belongs to Miami-Dade County. We're not going
22 outside those boundaries.

23 Q. Now, do the tenants use the phones, for
24 example, to make calls outside?

25 A. Through BellSouth lines, yes. In other

1 words, we buy services from BellSouth to go into a
2 public network. The minute the connection goes to
3 outside the airport to the public network, that is
4 services provided by BellSouth and another carrier.

5 Q. Correct, but the County bills for those
6 services?

7 MR. HOPE: Objection to form.

8 A. We get billed by BellSouth and then we
9 in turn bill --

10 Q. The customer?

11 A. -- the customer.

12 Q. Attached to Exhibit -- David has it.

13 MR. HOPE: 2.

14 Q. The customer list, Exhibit 2, that's as
15 of February 3rd -- February of 2003?

16 A. Um-hum.

17 Q. To your knowledge, is that list accurate
18 today or has it changed?

19 A. To my knowledge, it was accurate at the
20 time it was published. Since then some people have
21 gone out of business and we may have added a couple
22 more people -- more customers but, you know, it's
23 pretty much --

24 Q. Would you know, for example, by looking
25 at this list who's out of business or who's been

1 added?

2 A. No, not right off the top of --

3 Q. The list has what I would call four
4 categories; is that airlines, government agencies,
5 concessions/others, management companies.

6 Is that the way the County maintains a
7 list of its customers, in those categories?

8 A. This is the list. We don't have any
9 other way to maintain it. This is just for our own
10 differentiation, if you want to call it that, of
11 the different types of people that we serve.

12 Q. And are the same telecommunications
13 services available to all of the customers;
14 regardless of whether they buy them all, are they
15 all available?

16 A. Yes, sir.

17 Q. Are all the services available?

18 A. Yes, sir, they are all available. Not
19 all of them use the services.

20 Q. Right. I could pick services 12 and 4
21 and somebody else could pick 23 and 5?

22 A. Yes.

23 Q. But they're all available to everybody?

24 A. Yes.

25 (Plaintiff's Composite Exhibit 5 was

1 marked for identification.)

2 BY MR. BLOOMBERG:

3 Q. Are tenants of the airport required to
4 purchase any telecommunications services from the
5 County?

6 A. No, sir.

7 Q. They're free to go anywhere they want
8 to?

9 A. They're free to go anywhere they want
10 to.

11 Q. And if they go somewhere else, they
12 wouldn't use the County facilities?

13 A. That's correct.

14 Q. So would it be fair to say that the
15 County is in competition with other
16 telecommunication providers at the airport?

17 MR. HOPE: Objection to form.

18 A. We -- yes, we are basically there to
19 provide them services, if they want us to provide
20 them services. If not, they go to any company they
21 want.

22 Q. Right. And the County charges for these
23 services?

24 A. Not if they go to another company.

25 Q. If they go to the County --

1 A. If they go to the County, we charge them
2 just like BellSouth would charge them for the
3 services.

4 Q. The County engages in the business, so
5 to speak --

6 A. Yes, sir.

7 Q. -- attempting a profit-making
8 enterprise?

9 MR. HOPE: Objection to form.

10 A. Yes, sir.

11 Q. At least you hope it is?

12 A. We're losing money right now, but we're
13 hoping to make money.

14 Q. Like lots of people.

15 Let me show Composite Exhibit 5 for
16 purposes of the deposition which is a series of
17 papers that were produced by the County on a
18 response to a request for production.

19 Let me first ask you to take a look at
20 the staff and we'll go through them and find out
21 what you know about them.

22 A. Are we going to take this one by one?

23 Q. Probably.

24 A. Okay.

25 Q. Looking at the first page which bears a

1 number at the bottom of 000001, can you tell me
2 what that is? Do you recognize that handwriting?

3 A. It is my handwriting.

4 Q. Oh, good.

5 A. I was in contact as part of that process
6 of discovery, if you want to, whether we needed a
7 license or not to be an STS provider, we were in
8 touch with Al Robinson, which is the IT
9 counterpart -- my boss' counterpart -- no, I'm
10 sorry, he's my counterpart at the Orlando Airport
11 and he -- according to his information, he was
12 involved in a lengthy process to determine exactly
13 the same thing, whether Orlando should get a
14 license or not to provide STS services, and he had
15 attended many meetings with the Public Service
16 Commission and other entities, and he was one --
17 his opinion on the matter when I talked to him was
18 that we did not need a license just as Orlando did
19 not need a license and they're providing services
20 to tenants of the Orlando Airport, including shops
21 and things located within the airport.

22 Q. All right. So he reached that
23 conclusion?

24 A. He reached -- I don't know how he --
25 whether he reached the conclusion or somebody at

1 the P.S.C. alone reached that conclusion. As I
2 said, he was actually more involved than we were
3 with the P.S.C. in these matters.

4 Q. But he told you that Orlando --

5 A. Right.

6 Q. -- had reached a conclusion --

7 A. Right, that Orlando was providing
8 services without any licensing requirements.

9 Q. And at the top of the page is a date
10 12/10/01, presumably the date you spoke with you
11 him or the --

12 A. This was, right.

13 Q. These are your notes from a conversation
14 with Mr. Robinson?

15 A. I try to date every paper I write on so
16 I know.

17 Q. It's a good practice.

18 And 25.4 which is 25.4 public law --

19 A. It's probably the Florida Statute
20 paragraph. I imagine that's what it is. I don't
21 recall it.

22 Q. The next page which has the number
23 000003 on the bottom appears to be a fax cover
24 sheet to Myra Bustamonte.

25 Is that from you?

1 A. Yes, that's my handwriting.

2 Q. Do you recall when you sent this?

3 A. No, I don't recall.

4 Q. Down the Page 0002, which is the fourth
5 page of the exhibit, do you recognize that
6 handwriting?

7 A. Yes, that's mine.

8 Q. And what is that? What are those notes
9 from?

10 A. This seems to be a part of the process
11 that we were going through when we were trying to
12 purchase the Nextira's equipment and infrastructure
13 in order to also become the owners of all the
14 infrastructure.

15 Q. Would these notes in point of time be
16 after the notes of your conversation with
17 Mr. Robinson, to the best of your recollection?

18 A. It's hard to say because this is
19 December '01 and we were involved in this process
20 with NextiraOne probably for a good six months
21 before February of 2002.

22 Q. All right. Now obviously there are
23 references to the P.S.C. on this particular page?

24 A. But the reasons I stated before was that
25 Nextira was the provider of the service and now

1 we're engaged in buying the infrastructure so we
2 will become the providers of the service. So
3 obviously that was one of the questions that needed
4 resolution.

5 Q. As I understand it, in light of the fact
6 that the County was going to be the service
7 provider, you had to make a decision whether the
8 County now because of the change in circumstances
9 needed to obtain a P.S.C. certification?

10 MR. HOPE: Objection to form.

11 A. That's right.

12 Q. Now go to the page that starts with
13 No. 6. It appears to be a series of pages that
14 contain a draft of an application.

15 A. Yes, I remember this.

16 Q. Who was in charge for your department of
17 that process of filling out this paperwork?

18 A. In charge is -- I'm not sure who was in
19 charge. I'm not sure at this time there was nobody
20 in charge. It was just a process that the
21 application was requested. I'm not sure who did
22 it. It could have been me or somebody else. This
23 is not my handwriting. It looks like one of my --
24 Maria Perez, the supervisor that worked for me, but
25 it was just basically a draft of how to fill the

1 application and what information was going to be
2 required and to start the process.

3 Q. And that handwritten draft goes from
4 Page 6 to Page 16?

5 A. 16, right.

6 Q. And Page 17, whose handwriting is that?

7 A. That's mine.

8 Q. All right. And that's dated 10/26/01?

9 A. Um-hum.

10 Q. What are those notes of?

11 A. These are -- these are my notes. Looks
12 like putting down a conversation that I had with
13 some gentleman that the name's above.

14 Q. And I guess the paragraph below the
15 names, does that paragraph recognize distinction
16 between public transportation and hotels and shops,
17 et cetera? What was the purpose of putting that
18 document --

19 A. This is what this -- one of these people
20 that I spoke to, and I don't know what their titles
21 are or what their -- you know, whether they have
22 the authority to interpret, but this is what they
23 told me as far as the subject matter.

24 Q. The third name is that fella Moses who
25 the e-mail is from?

1 A. Yes.

2 Q. And you wrote down MIA is going to
3 provide service not related to public
4 transportation (hotels, shops, et cetera). We need
5 to file applications.

6 A. Obviously somebody -- one of these three
7 people made that statement and I wrote it down.

8 Q. Right. You wrote it down and that's
9 consistent with, as you understand, at least the
10 language of the Florida Statute?

11 A. Not necessarily.

12 Q. Okay.

13 A. Again, we're interpreting it -- if it's
14 not in the -- in the airport -- outside the airport
15 property, you can have a hotel half a block away or
16 a shopping mall half a block away. That's what the
17 interpretation is that we have given this.

18 Q. Do you know why -- I don't know if you
19 can answer the question, but what is significant or
20 not significant about filing the application?
21 Would there have been a problem to file the
22 application?

23 MR. HOPE: Objection to form.

24 A. Just -- it's just more time wasted that
25 we don't have.

1 Q. Well, did you ever fill out an
2 application?

3 A. Well, to the extent you saw the exhibit,
4 the previous exhibit.

5 Q. All right. Let me ask you to go to the
6 next page which is -- I'm sorry -- the page that
7 starts with 20.

8 A. Okay.

9 Q. It appears to be a typed version of the
10 application, is it not?

11 A. Yes.

12 Q. So you actually went and filled out the
13 application?

14 MR. HOPE: Objection to form.

15 Q. The department actually filled out the
16 application?

17 A. We filled out -- it seems to be the
18 typed version. Without reading every page, I can't
19 tell you. But yes, we did type out the
20 application. It was an attempt to file the
21 application.

22 Q. But never filed it?

23 A. Right.

24 Q. Was there somebody within the department
25 or somewhere else within the County, to your

1 knowledge, who made the ultimate decision that said
2 we are not filing this application? And if it was,
3 who was it?

4 A. The decision was made not to file it? I
5 don't know exactly who -- whose decision was it.
6 It was communicated to me that we're not filing it
7 or the airport wasn't filing it, and that was the
8 extent of that.

9 Q. Who communicated that to you?

10 A. I don't recall who communicated it to
11 me.

12 Q. During the process in which there were
13 discussions about whether or not to file the
14 application, who did you talk to about that subject
15 matter?

16 A. I talked to my boss Maurice Jenkins, I
17 talked to counsel, I talked to -- you mean as far
18 as within the airport department?

19 Q. Right, within the decision-making group.

20 A. I think that's basically it, as far as
21 me up. From me down it's -- you know, I discussed
22 it with the person that filled out the draft. But
23 basically it was just a discussion with my boss and
24 counsel.

25 Q. But you don't know who actually made the

1 ultimate decision?

2 A. No, sir. For what it's worth, I do
3 recall that the opinions of the process that
4 Orlando Airport went through has some weight that I
5 communicated to -- with people involved in the
6 discussion at MDAD as far as not requiring a
7 license.

8 Q. Right.

9 You were sort of the investigator --

10 A. Right.

11 Q. -- and found out information --

12 A. I was putting together the
13 information --

14 Q. -- and passed that on?

15 A. Passed it to the higher authority to
16 make a decision one way or the other.

17 Q. Do you know of any airports within the
18 state that have actually made application?

19 A. I believe I spoke to the folks at the
20 Tampa Airport, and they told me that they had
21 applied but they were not providing the services.
22 So they really didn't know -- they didn't seem to
23 be very knowledgeable about the whole thing.

24 Q. Any other airports, to your knowledge?

25 A. Those are the only two that I really had

1 contact with. As I said, the Orlando folks seemed
2 to be very knowledgeable about the process. They
3 had been in it for a while and they were deep
4 into --

5 Q. Have you had any communications with the
6 Public Service Commission since your e-mail to
7 Mr. Moses back in March?

8 A. No, sir.

9 Q. Verbal? Any verbal communications?

10 A. None that I recall, no.

11 Q. Do you know if Mr. Jenkins has had any
12 contact or discussions with the Public Service
13 Commission since mid-March of 2003?

14 A. I'm not aware of any, but then he
15 doesn't tell me everything.

16 Q. Nobody's told you that?

17 A. Right.

18 Q. You can put that packet away, fold it
19 up.

20 Are there any other entities, to your
21 knowledge, individuals or entities that provide
22 telecommunications services to tenants at the
23 airports within the County?

24 A. Define entities. You mean other
25 companies?

1 Q. Other companies, yes, businesses.

2 A. Sure. There are many.

3 Q. Who?

4 A. BellSouth, MCI, there's -- we're not --
5 the tenants do not let us know who do they do
6 business with as far as provisioning their
7 telecommunication services. So they could be
8 almost anybody providing services.

9 Q. The ones you provide services you know
10 you provide service to?

11 A. Right.

12 Q. But you don't know who provide services
13 to the other --

14 A. Yes.

15 Q. But you do know there are other entities
16 out there that provide services?

17 A. Yes. Within their leasehold, they can
18 get services from anybody they want to. They don't
19 even have to tell us who.

20 Q. Would you classify those services as
21 services similar to those that the County provides?

22 MR. HOPE: Objection to form.

23 A. I cannot really tell whether the
24 services are -- you can say similar. They may or
25 may not -- they may be more or less what we

1 provided but they're of the same nature.

2 Q. Right, voice and voice network.

3 A. Voice and network, right.

4 Q. Does the County compete with these other
5 entities for the business out there?

6 A. Yes, sir.

7 Q. Are you aware of situations where a
8 potential customer of the County chose to go with
9 BellSouth or MCI or some other entity?

10 A. Yes, sir.

11 Q. And they've told the County we're going
12 elsewhere?

13 A. They don't tell us. They just do it.
14 Most of the time before they even come to the
15 airport they've already made plans to go with
16 somebody else.

17 (Plaintiff's Exhibit 6 was marked for
18 identification.)

19 BY MR. BLOOMBERG:

20 Q. Let me show you what's been marked as
21 Exhibit 6 for the purposes of the deposition and
22 ask you first if you can tell me what it is.

23 A. It looks like a work order cover
24 sheet -- a work order, work description, the work
25 order.

1 Q. I mean it's a form that's used by the
2 County?

3 A. Yeah, it's used by NexiraOne basically
4 to transmit the work order information to perform
5 work for the tenants or communicate with us for
6 that.

7 Q. Up at the top it says work order
8 processor-TSR remarks. Do you know what TSR means?

9 A. TSR number, I don't really know what
10 that stands for, but it's just a number of the work
11 order. It could be just the name of the system
12 that produces this.

13 Q. It's an identifying number of some sort?

14 A. An identifying number for the work
15 order.

16 Q. Down in the remarks it says cancel as
17 per Holly. Do you know somebody by the name of
18 Holly out there?

19 A. Holly is the person who works for
20 NextiraOne and she's the one -- the person that
21 does the marketing to get customers to come to
22 our -- to provide -- to let us provide the
23 services.

24 Q. This one says cancel as per Holly,
25 customer opted to use BellSouth?

1 A. Right.

2 Q. Which would indicate to you that this
3 particular customer, and we don't know who it is,
4 it's been redacted, but has chose to use BellSouth
5 as its provider as opposed to the County?

6 A. That's right.

7 Q. Below that it says provide quote,
8 install one analog line in room -- whatever the
9 room number is. Analog line is a voice line?

10 A. What happens is everything that
11 NextiraOne does for us, they require permission,
12 which is a work order to do whatever.

13 Q. Permission from whom?

14 A. From MDAD, from the aviation department.
15 They work for us. We pay them for this.

16 Q. Okay.

17 A. So this was a work order that was
18 issued, seems like, for them to provide -- to go
19 out to the customer and provide a quote. Sometimes
20 you need to install a wire or do some work to
21 provide the service.

22 So she went ahead and tried to give this
23 customer a quote, whoever the customer was, and
24 when she got there the customer had already made
25 arrangements for BellSouth to provide the service.

1 So this is just basically cancelling the work
2 order.

3 Q. So in this case BellSouth was apparently
4 providing a similar service?

5 A. The customer picked BellSouth as a
6 service provider which is the same service we could
7 have provided.

8 MR. HOPE: Objection to form.

9 (Plaintiff's Exhibit 7 was marked for
10 identification.)

11 BY MR. BLOOMBERG:

12 Q. Let me show you what's been marked as
13 Exhibit 7 for the purposes of deposition and ask if
14 you recognize that document.

15 A. Okay.

16 Q. Have you seen it before?

17 A. I'm sure I have.

18 Q. What is it?

19 A. It seems to be telling the customer --
20 the tenants of the airport about services that
21 would be provided in addition to the ones that were
22 provided before.

23 Q. Now, is there a change in services -- I
24 know there was a change with Nextira in
25 February 2002. Was there a change in services

1 provided after the 2002 agreement?

2 A. Not really. All we did was take over
3 their operations. Whatever services they were
4 provided before, we were going to provide.
5 However, STS, as we see it, is not only services
6 that Nextira provides. We're calling basically STS
7 anything that the airport can provide, even outside
8 the telecommunications arena.

9 They may need what they call a FIDS
10 monitor to provide flight information and things
11 like that in their back office and we -- the
12 airport -- to provide service to all the airlines
13 and everybody, unless there -- we can provide
14 anything they want at a price.

15 Q. Okay.

16 A. I think it's our responsibility and also
17 the way to --

18 Q. Make money?

19 A. -- get some money for the airport.

20 Q. Right.

21 The MDAD is in the telecommunications
22 business?

23 MR. HOPE: Objection to form.

24 A. MDAD is in the business of lowering the
25 landing fees to the airlines as much as possible by

1 producing revenue in any way we can.

2 Q. To the County?

3 A. To the County.

4 Q. Making money without taxing people?

5 A. Yes, that's right.

6 (Plaintiff's Exhibit 8 was marked for
7 identification.)

8 BY MR. BLOOMBERG:

9 Q. Did the County or MDAD or anybody
10 prepare a marketing plan?

11 A. Yes. We requested from NextiraOne after
12 we purchased their infrastructure that they would
13 prepare a marketing plan on our behalf.

14 Q. To go out and market to tenants of the
15 airport --

16 A. Yes.

17 Q. -- airports?

18 A. Um-hum.

19 Q. Let me show you what's been marked as
20 Plaintiff's Exhibit No. 8 and ask you if that is a
21 copy of the marketing plan.

22 A. Yes.

23 Q. And the first page there's handwriting
24 on it. Do you recognize the handwriting?

25 A. This is my boss' handwriting.

1 Q. Both of them? Both the page to
2 Simone --

3 A. Yeah, Simone is his secretary and Pedro
4 is me, so he was writing notes to discuss this with
5 me. He wasn't happy with it.

6 Q. If you sort of skim the pages, you'll
7 see some handwritten notes or some handwritten
8 comments. Is all of that handwriting Mr. Jenkins'
9 handwriting, to your knowledge?

10 A. It looks like it is, yes.

11 Q. If you go to Page 7 of the report which
12 bears the number 000165 on the bottom,
13 Section 2.2.1 Strengths, it says knowledge. Our
14 competitors are Reeboks, and then the handwritten
15 note, Regional Bell Operating Company --

16 A. RBOX.

17 Q. RBOX, Reeboks --

18 A. That's an industry thing.

19 Q. You're right. Regional Bell Operating
20 Companies, whose handwriting is that? Is that
21 Mr. Jenkins', to your knowledge?

22 A. That could have been me just to clarify
23 what the name meant.

24 Q. And BellSouth is one of those RBOX;
25 correct?

1 A. Yes, sir.

2 Q. So then this marketing plan
3 acknowledges, does it not, that BellSouth and MDAD
4 are competitors in this venture or in this
5 business?

6 A. Correct. Actually, this term is out of
7 date. The person that wrote this is talking like
8 some many years back.

9 Q. Right.

10 A. The correct term is --

11 Q. Right.

12 A. But it means that.

13 Q. BellSouth?

14 A. BellSouth or any other service provider.

15 Q. Are you familiar with it as it relates
16 to what's going on at the airport? Are you
17 familiar with the Miami-Dade County, Florida Home
18 Amendment Charter as it relates to the operation of
19 this kind of this business? Have you ever looked
20 at it?

21 A. As it refers to the operation of the
22 airport?

23 Q. The telecommunications business at the
24 airport.

25 A. No, I can't say that I'm --

1 (Plaintiff's Exhibit 9 was marked for
2 identification.)

3 BY MR. BLOOMBERG:

4 Q. Let me show you what's been marked as
5 Exhibit 9 for purposes of the deposition and ask
6 you to turn to what would be Page 17 of that -- no,
7 I'm sorry -- Page 17, the bottom of Page 17, No. 14
8 on that page -- actually, I'm sorry, you've got to
9 go to Page 16, Section 101 first.

10 MR. HOPE: Could we just go off the
11 record for a second.

12 MR. BLOOMBERG: Sure.

13 (Discussion off the record)

14 (A break was taken.)

15 BY MR. BLOOMBERG:

16 Q. Start at Page 16, 101, Subparagraph A,
17 the powers. And then turn over to Page 17, No. 14,
18 at the bottom of the page. And if you would read
19 that for me.

20 A. Regulate control --

21 Q. To yourself.

22 And then if you go over to, I guess,
23 sub B on Page 18 --

24 A. Right.

25 Q. -- which is the one in the bracket, if

1 you would read that to yourself.

2 A. Okay.

3 Q. Are you familiar with those provisions
4 at all?

5 A. I have seen this paragraph before.

6 Q. Paragraph B?

7 A. Yes.

8 Q. Where did you see it before?

9 A. I've seen it in some of the
10 correspondence.

11 Q. All right.

12 A. It looks familiar to me. That's what
13 I'm saying.

14 Q. Were you ever asked by anybody to offer
15 opinions concerning the meaning of subparagraph B
16 and how it affected or how it impacted on what MDAD
17 was doing at the airports?

18 A. No, sir.

19 Q. As the person involved and the chief of
20 the telecommunications unit, is MDAD operating a
21 telephone utility at the airport?

22 A. It's operating -- it's providing
23 telephone services at a County-owned facility.

24 Q. Is it a telephone utility?

25 A. The word utility, it's -- I'm not sure

1 that it applies. Is every vendor that provides
2 services a utility? I'm not sure that definition
3 is correct.

4 Q. How would you define telephone utility
5 as somebody who's been in this business --

6 A. It's a regular entity like Florida
7 Power & Light, the water company, which is the way
8 BellSouth used to be. It still is a carrier
9 preference. I mean BellSouth has some rights and
10 duties different than any other vendor because it's
11 still the carrier of last resort. They have to
12 provide phones and ground lines to the corner even
13 though it takes a lot of money to run the wire and
14 not make money out of it. Nobody is forced to do
15 that except BellSouth.

16 So BellSouth in that sense, the way I
17 interpret it, is a utility or maybe the way
18 everybody interprets it. And just like the power
19 company and so forth because they're regulated.
20 And we're not regulated in that sense and neither
21 are the other vendors who provide those services.

22 Q. Now other vendors are regulated, also;
23 correct?

24 A. Not the other vendors, no. BellSouth
25 is; the other vendors are not.

1 Q. MCI is not regulated?

2 A. Not to the extent that BellSouth is.

3 Q. Not at all?

4 A. Well, I don't know what you call
5 regulation. I'm saying not to the extent that
6 BellSouth is regulated. I don't consider MCI a
7 utility, but I consider BellSouth a utility. But
8 that's just me.

9 Q. Now, if the County -- I realize this is
10 a hypothetical -- but if the County had made the
11 determination that it had to submit the application
12 to the Public Service Commission, if you had made
13 that determination when you had those discussions,
14 would you consider the County a utility?

15 A. No, sir.

16 MR. HOPE: Objection to form.

17 Q. Even though it was regulated, you
18 wouldn't consider it a utility?

19 MR. HOPE: Objection to form.

20 A. That's not a regulation. That's just
21 the license to perform the duties.

22 MR. HOPE: Objection to form.

23 Q. All right. Just to make sure that I
24 understand your distinction, BellSouth is a
25 utility, is the only telephone utility in the state

1 of Florida or at least within this region because
2 it is --

3 A. There's 29, I believe.

4 Q. 29 what?

5 A. Utilities in the state of Florida as far
6 as BellSouth.

7 Q. Because of the scope of regulation?

8 A. Because they're the carrier of last
9 resort in the area in which they serve.

10 Q. Do you have any idea why the charter
11 uses the phrase the County shall not operate a
12 telephone utility? I realize you didn't draft the
13 charter provision, but have you ever had a
14 discussion with anybody as to why that phrase is
15 there?

16 MR. HOPE: Objection to form.

17 A. I have no idea why that's there.

18 Q. Correct me if I'm wrong, we've already
19 gone through the fact that apparently it may not be
20 the exact same service, but BellSouth, for example,
21 offers similar services to tenants at the airport?

22 MR. HOPE: Objection to form.

23 A. We provide services to the tenants of
24 the airport which is a County-owned facility.

25 Q. I'm just asking if BellSouth offers

1 similar service to those tenants.

2 A. Yes, they do.

3 Q. And is the airport a territory in the
4 County?

5 A. The airport is a County-owned facility.
6 That's a legal interpretation. I don't believe we
7 consider the airport to be a territory. It's a
8 County-owned building or facility. I'm not an
9 attorney. Again, my opinion. But if you ask my
10 opinion, I would consider territory a neighborhood,
11 West Miami, Coral Gables; those are territories.

12 A County-owned facility, I don't
13 consider that to be a territory, but that's my
14 interpretation.

15 Q. Why not?

16 A. Why not? It's just the definition
17 that -- the meaning that I attach to the word.

18 Q. What meaning do you attach to the word
19 territory?

20 A. A territory is a more -- it's not
21 something that you own. It's something that is
22 owned collectively by other folks, collectively or
23 independently, and there are certain amounts of
24 legal control over that territory but that's -- the
25 Miami International Airport is an owned facility by

1 the County. We don't own Coral Gables, the County
2 doesn't own West Miami, but they own the Miami
3 International Airport.

4 And if I could go further, I would
5 probably say the intent of this was basically to
6 reassure the utilities that we would not complete,
7 we meaning by Miami-Dade County will not compete
8 with them to provide services to neighborhoods and
9 other neighborhoods that would be competing with
10 them.

11 Q. Miami International Airport is within
12 the physical geographic boundaries of Miami-Dade
13 County; is that a fair statement?

14 A. Yes, sir.

15 Q. As are the two other airports, Tamiami
16 and Opa-Locka, to which the County provides similar
17 services?

18 A. Yes.

19 Q. Does the County provide telephone
20 services at other locations, to your knowledge,
21 within the geographical boundaries of Miami-Dade
22 County?

23 A. Miami-Dade County has telephone
24 equipment and network equipment similar to what's
25 in at the Miami International Airport only in

1 County-owned facilities.

2 The County does not provide services to
3 buildings and -- or -- that have nothing to do --
4 or tenants that have nothing to do with the
5 government operation.

6 Q. Correct me if I'm wrong, are those
7 facilities serving the County itself?

8 A. It's serving the County employees.

9 Q. The County employees?

10 A. And by the way -- and then we'll connect
11 to BellSouth for the outside --

12 Q. I understand that. But what I'm asking
13 you is other than at the airports, does the County
14 provide telephone service, for example, to people
15 or entities other than County employees anyplace
16 else within the County?

17 A. Not to my knowledge. It's no different
18 than the owner of this building having their own
19 telephone switch and providing dial tone to people
20 that live in the building.

21 Q. I'm just saying --

22 A. That's the extent, as far as I know.

23 Q. I'm just trying to understand.

24 Let's do it this way. We've agreed
25 earlier in the deposition that MDAD is engaged in

1 what it hopes to be a profit-making enterprise by
2 providing telecommunication services to tenants of
3 the airport?

4 A. Yes.

5 MR. HOPE: Objection to form.

6 Q. Are the airports, to your knowledge,
7 that we talked about the only places within the
8 geographical boundaries of Dade County where a
9 county agency is attempting to make money by
10 providing telecommunications services?

11 MR. HOPE: Objection to form.

12 A. To the best of my knowledge, yes.

13 Q. Right.

14 All other facilities where the County
15 has telecommunications services, it is being
16 provided to County employees in a nonprofit-making
17 enterprise?

18 MR. HOPE: Objection to form.

19 A. To the best of my knowledge, yes.

20 Q. Were you ever involved in a discussion
21 at any time as to whether or not the County needed
22 to obtain a majority vote of electors before it
23 could engage in this kind of business?

24 A. Was I involved?

25 Q. In any discussions concerning that

1 subject.

2 A. No, sir.

3 MR. HOPE: Objection to form.

4 Q. To your knowledge, has the County ever
5 in the past sought voter approval to engage in some
6 sort of power or telephone business?

7 MR. HOPE: Objection to form.

8 A. I can't -- I can't recall. I don't
9 remember.

10 (Plaintiff's Exhibit 10 was marked for
11 identification.)

12 BY MR. BLOOMBERG:

13 Q. Show you what's been marked as
14 Exhibit 10 for the purposes of deposition. I'll
15 ask you to take a look at it. Let me know after
16 you've had a chance to read it. By the way, for
17 the record -- and I don't mind that Mr. Garcia is
18 writing on it, but the little yellow scribble is
19 Mr. Garcia's. He just wrote on the top of the
20 exhibit. I don't mind at all --

21 A. Is that a problem?

22 MR. HOPE: No, he's just noting because
23 this is the original.

24 Q. Well, it's not the original.

25 A. I'm sorry.

1 Q. I don't mind. No problem. I just want
2 to make sure so that at some point when we go back
3 we know where it came from.

4 A. Yes.

5 Q. Before I go to the document, was there a
6 vote of the electors of Dade County taken to
7 approve or to allow MDAD to engage in this
8 telecommunications business at the airport?

9 A. Not to my knowledge.

10 Q. The memorandum which bears the
11 No. 000453, dated March 5th, 2002, it's to Maurice
12 Jenkins from David Hope.

13 Have you seen that before?

14 A. Yes, I have.

15 Q. When did you see that?

16 A. I can't say exactly, sometime after it
17 was written.

18 Q. Do you know what precipitated that memo
19 or why that memo was written?

20 A. To my recollection, was due to
21 objections of BellSouth to MDAD providing
22 telecommunications services at the airport.

23 Q. Did you have any discussions with
24 anybody concerning the memorandum, Exhibit 10?

25 A. This is my concern in this memorandum.

1 Q. For the subject matter of the
2 memorandum?

3 A. I don't recall specifically having any
4 meetings or any discussions on this matter, no.

5 MR. BLOOMBERG: All right. Why don't we
6 take a break for about ten minutes or so
7 before we get into this stack of documents.

8 (A break was taken.)

9 BY MR. BLOOMBERG:

10 Q. Mr. Garcia, are you familiar with an
11 agreement between Miami-Dade County, Florida and
12 Nextira that was entered into early February of
13 2002?

14 A. Yes, sir.

15 Q. Were you involved in the preparation, if
16 you will, of that agreement?

17 A. Yes, I was.

18 Q. What was the general purpose of the 2002
19 agreement?

20 A. The purpose was to acquire from
21 NextiraOne the infrastructure that they had at the
22 airport -- that they own at the airport to provide
23 telecommunications services, including the
24 telephone switches, network equipment and the
25 wiring infrastructure existing at the airport.

1 Q. What do you mean by the term
2 infrastructure?

3 A. Infrastructure is all -- basically the
4 wires that are behind the walls that are running
5 through the airport providing where the information
6 flows to provide the services.

7 Q. Let's go to the 2002 agreement. Had the
8 County been involved in the telecommunications
9 business, so to speak, at the airport prior to
10 that?

11 MR. HOPE: Objection to form.

12 A. The County was basically a customer of
13 NextiraOne prior to that. We were their customers
14 as far as they were providing us the services along
15 with the services they were providing to other
16 tenants of the airport.

17 Q. Before February of 2002 was the County
18 providing in any way telecommunications services to
19 other tenants at the airport?

20 MR. HOPE: Objection to form.

21 A. No.

22 Q. Strike that.

23 A. Nextira was providing the services. We
24 were getting -- I believe it was a 10 percent
25 commission on the services provided to other

1 tenants of the airport other than the aviation
2 department.

3 Q. Was that just for allowing Nextira to
4 provide it?

5 A. Yes.

6 Q. Did Nextira provide those services
7 pursuant to an RFP, or how did Nextira get to the
8 airport to provide those services? What was the
9 arrangement?

10 A. This was a contract that existed, I
11 think, prior to -- ten years prior to me starting
12 there. I'm not sure how it was awarded. I presume
13 it was a process of an RFP at the time. It wasn't
14 even Nextira. It was Williams. It changed names a
15 few times after that. So in any event, this has
16 been going on for over ten years they've been there
17 providing the services, as far as I know.

18 Q. Let me make sure I understand this. Up
19 until 2002 or February 2002, Nextira or its
20 predecessor, whoever it may have been, provided
21 telecommunications services to tenants of the
22 airport?

23 MR. HOPE: Objection to form.

24 A. To some of the tenants.

25 Q. Some?

1 A. Including the Miami-Dade Aviation
2 Department.

3 Q. Did Miami-Dade County receive some sort
4 of commission or payment from Nextira or its
5 predecessor prior to February 2002?

6 A. We received, I believe, 10 percent of
7 the gross for allowing them to provide the service.

8 Q. Did Miami-Dade County pay Nextira to
9 provide services to the County, or did the County
10 get those services for free?

11 A. We paid them through the nose for the
12 services that they provided us.

13 Q. So on one hand the County was getting
14 10 percent or roughly 10 percent of what Nextira
15 got from other tenants but also the County was
16 paying?

17 A. We were paying and we were paying a lot
18 more than what we were getting for the services.

19 Q. All right. And in February 2002,
20 pursuant to this agreement with NextiraOne, the
21 County became the provider and Nextira became, if
22 you will, a subcontractor; is that a fair
23 characterization?

24 A. That's correct.

25 Q. So there are Nextira employees now who

1 still work at the airport --

2 A. Yes.

3 Q. -- and who, in essence, report to MDAD?

4 A. Do not report to MDAD -- well, they have
5 their own organization. The manager is Pedro De
6 Camillo and they in turn are basically -- we have a
7 subcontractor relationship.

8 Q. Okay.

9 A. We don't report, you know, in the sense
10 of -- in an organization chart to us, but they
11 basically are accountable to us for what they do.
12 If they do what we tell them, we pay them.

13 Q. And they get paid for the services that
14 they provide?

15 A. That's right.

16 Q. What, if you know, was the genesis that
17 led up to this February 2002 agreement? How did it
18 come about? Where did it start? Where did it come
19 from?

20 A. I don't know who started it. That was
21 done before I came to work at the airport. But it
22 was a business decision, basically. It was -- we
23 been -- they were charging the airport a lot of
24 money for the services that we were getting, and it
25 was decided that -- by analyzing the situation that

1 if we could enter into the right kind of agreement
2 with them and buy the infrastructure that it would
3 be a better business deal for the airport, plus we
4 wanted -- the airport wanted to have control over
5 the infrastructure at the airport instead of
6 depending on an outside vendor to decide what we
7 could do or not do.

8 Q. Were you asked at any time to perform
9 any kind of evaluation, you personally asked for
10 any kind of evaluation, any kind of analysis? Were
11 you involved in any way in the loop, so to speak?

12 A. Yes, I was involved since the time I
13 started working there.

14 Q. And I assume, correct me if I'm wrong,
15 that as most things with the County, it went
16 through a resolution process to get approval?

17 A. Yes.

18 (Plaintiff's Exhibit 11 was marked for
19 identification.)

20 BY MR. BLOOMBERG:

21 Q. Let me show you what's been marked as
22 Exhibit 11 for deposition which purports to be a
23 memorandum from Manager Shiver to the Board of
24 Commissioners dated January 29, 2002 and ask if
25 you've seen that before.

1 A. Yes, I've read a lot of this stuff, at
2 least scanned through mostly.

3 Q. Were you involved in any way in the
4 preparation of that memorandum?

5 A. Indirectly as far as providing
6 information, I directly did not write this memo.
7 Whoever put this thing together when they needed
8 technical advisement as to the wording or some of
9 the things, I probably provided some of this
10 information.

11 Q. The first paragraph, let's start with
12 the first paragraph.

13 What does the acronym CUTE stand for?

14 A. It's Common Used Terminal Equipment.

15 Q. What is that?

16 A. This is the system that the airlines use
17 to, again, basically to provide the ticket
18 information, the reservations, print the boarding
19 passes, the bag tags and even the tickets they
20 print at the counter when you go check in at the
21 flight.

22 And what it is is a system that acts
23 like a traffic cop, and it allows the common use of
24 counters and gates at the terminal, more important
25 the gates. In other words, what the equipment does

1 is there's equipment there, your Delta Airlines,
2 you -- let's say you're ABC Airlines. You have one
3 flight a day. You don't want to rent that counter
4 the whole day. You have a flight and you need it
5 to for three hours in a day.

6 So you come in and this CUTE, when they
7 belong to that system, they can use the system to
8 log into their own -- into their own system which
9 could be located in Brazil, and they log into their
10 own system through the CUTE, and then when they
11 finish, they log out and they move out and this
12 terminal can be used by XYZ Airlines to do the same
13 thing and it's not a dedicated gate for the airline
14 but it could be used for other airlines.

15 Q. It's not like American who has 35
16 dedicated --

17 A. American has dedicated counters.
18 They're not on CUTE. They have their own system,
19 proprietary system.

20 Q. So CUTE, as I understand it, is
21 something that would be used mostly by the smaller
22 airplanes to go from gate to gate, so to speak?

23 A. Mostly, yes. It gives basically the
24 airline gate assignment without having to say oh,
25 no, you can't assign a plane coming for this gate.

1 This is only for this airlines or that airlines.

2 Q. I understand.

3 But there are four points in the first
4 paragraph and I'll paraphrase, and if I'm wrong,
5 please tell me.

6 MDAD or the County was going to acquire
7 the equipment?

8 A. Yes.

9 Q. And that was all of the equipment
10 related to the telecommunications business that
11 Nextira was doing at the airport?

12 A. All the equipment that Nextira owned at
13 the airport, yes, it belongs to the airport now.

14 Q. And for \$6 million plus which is going
15 to be paid over five years?

16 A. Right.

17 Q. Prior to the agreement, Nextira owned
18 the equipment; is that correct?

19 A. Yes.

20 Q. What kind of equipment is this?

21 A. It's telephone switches, the telephone
22 instruments that people use to make phonecalls, the
23 network equipment behind the scenes, supplies,
24 routing switches, all the wiring inside the airport
25 to provide the services, the outside cables

1 connecting the different buildings, the CUTE
2 equipment. That's basically most of it.

3 Q. And why did the County, if you know,
4 make the decision to purchase the equipment?

5 A. It was a business decision mostly and
6 also a way to control our own infrastructure at the
7 airport instead of having it owned by some other
8 vendor.

9 Q. Was there any discussion about maybe the
10 County leasing the equipment from Nextira, or was
11 it always going to be purchased?

12 A. We were leasing it. That was the mode
13 of operation.

14 Q. Previously?

15 A. We wanted to get out of --

16 Q. That you wanted to own your own
17 equipment to run your own business --

18 A. We were paying a rental for every little
19 jack that you see on the wall, we were being
20 charged like \$2.50 for every jack, for every wire,
21 for every nut and bolt at the airport. It was
22 basically almost an extortion issue.

23 Q. Okay.

24 MR. HOPE: Objection to form.

25 Q. There was no question.

1 You can strike the extortion issue.

2 A. We were trying to basically improve the
3 situation for the airport because like I said, it
4 was a business decision, and we felt we could do a
5 lot better by getting into a different mode of
6 operation. If we could come up with a nice -- a
7 pack or a proposal, an agreement that would be
8 beneficial for the airport as far as going forward.

9 Q. Where MDAD was going to suddenly be able
10 to make money on the operation on the
11 telecommunications operation?

12 MR. HOPE: Objection to form.

13 A. The main issue was not to make money.
14 The main issue was to -- let's realize that we were
15 paying for the services that the aviation
16 department staff was using.

17 Q. Right.

18 A. And that was very expensive the way it
19 was done at the time because of the leasing
20 agreements that we had. The main driving force of
21 all of this was basically having a better deal as
22 far as our own -- getting our own services provided
23 to our own equipment. The whole STS issue of
24 making money -- by the way, we're not making money.
25 We're losing money. The whole issue was just a

1 consequence of it came with the deal, so to speak.

2 Q. You have the equipment, so now you might
3 as well use it?

4 A. We have the equipment and we have the
5 staff there, so we could use the staff to provide
6 the service and we were sharing the equipment
7 anyway. So the whole thing came along with the
8 other thing, but it wasn't the main driving force.

9 Q. Right.

10 The driving force was the economics
11 of --

12 A. Of getting our own services at a cheaper
13 rate.

14 Q. But it was an economic deal?

15 A. Right, yes.

16 Q. And the outside services of it was there
17 because you had the ability to do it because you
18 were now going to own the equipment?

19 A. I'm sorry, the what?

20 Q. The ability to provide services to
21 tenants --

22 A. Right.

23 Q. -- was because --

24 A. It was existing already. Nextira
25 already had the contracts going and we had the

1 equipment and we had the people to do it.

2 Q. Right.

3 A. So it was just going on with what was
4 there.

5 Q. And the second point in the first
6 paragraph is the resolution of various claims
7 arising out of the ELM Agreement and SATS
8 Agreement, what is that, sir? Can you explain that
9 to me? It's in the middle of the agreement.

10 A. The ELM Agreement was the agreement that
11 the airport had with Nextira prior to the February
12 of 2002. That was the agreement that was used in
13 which we were leasing from them the services.

14 Q. Were there disputes going back and forth
15 over that agreement because as a lawyer when I see
16 resolution of various claims, it strikes me that --

17 A. There were some claims being disputed.
18 Again, we felt sometimes -- I don't recall exactly
19 any particular ones but there were -- I know there
20 were issues that we were not happy with, the same
21 way we were being charged for certain things, and
22 there was always some going back and forth on that.

23 Q. And the SATS Agreement, what was that?
24 The resolution of claims under the SATS Agreement,
25 what claims are arising out of the SATS Agreement,

1 if you recall?

2 A. I'm not seeing any.

3 Q. Yes. It's the second number. It says
4 resolution of various claims arising out of ELM
5 Agreement and SATS Agreement.

6 A. I can't -- I don't recall exactly
7 particulars of that, but it's all related to the --
8 again to some issues of charging and we did not
9 agree with the way it was done.

10 Q. And three is the assignment to the
11 County all existing tenant SATS and CUTE agreements
12 entered into by Centel or its successors or assigns
13 with tenants at the airport. That was --

14 A. The company's changed the name through
15 the years from Williams to Centel to Nextira to
16 NextiraOne, but it was an internal thing with them,
17 a spin-off for the main company or so forth.

18 Q. So pursuant to the agreement you were
19 entering into with Nextira, all of the Nextira
20 customers at the airports were going to become
21 customers of the County?

22 A. Yes, sir.

23 MR. HOPE: Objection to form.

24 Q. How many customers were there back in
25 January of 2002, Nextira customers?

1 A. I don't recall the number but it's -- it
2 was probably a little more than the list that you
3 saw because since then the economy went down a
4 little and people went out of business and so
5 forth.

6 Q. So it might have been slightly hire than
7 the 2003 list as far as the numbers?

8 A. It's slightly higher than what we had.

9 Q. And then No. 4 in this next paragraph is
10 Nextira to become the interim telecommunications
11 and infrastructure manager.

12 So Nextira's role post agreement was to
13 be what?

14 A. Nextira's role was to become basically
15 the provider on our name. They would manage, they
16 will go and fix things. They would market, they
17 would install and they would bill on behalf of the
18 aviation department for these services.

19 Q. So in other words, was Nextira now to be
20 paid by you, the County, for work it was going to
21 do --

22 A. That's right.

23 Q. -- as opposed to being the actual
24 provider?

25 A. That's right.

1 Q. So the County was going to be the
2 provider to the post 2002 agreement, the County was
3 going to provide the services to the tenants at the
4 airport; is that correct?

5 A. Yes.

6 Q. And that was a change from prior to the
7 2002 agreement?

8 A. That's correct.

9 Q. In which Nextira provided services and
10 the County just got a commission for allowing them
11 to do it?

12 A. Right.

13 Q. The next paragraph talks about
14 recommending the board approve the resolution
15 authorizing the purchase of various equipment, and
16 there's seven little Roman numerals.

17 Is that the equipment also referred to
18 in Paragraph 1 or is that additional equipment?

19 A. This basically is supposed to encompass
20 all the equipment that was owned by NextiraOne at
21 the airport needed to provide the services
22 outlined, the telephone, network, CUTE, and
23 whatever else it would provide.

24 Q. And the County needed that equipment
25 because, in essence, it was going into the

1 telecommunications business at the airport?

2 MR. HOPE: Objection to form.

3 A. The County needed equipment in order to
4 continue to provide the services that Nextira was
5 providing.

6 Q. Because Nextira, it was no longer
7 providing the services, the County was providing
8 the services?

9 A. Right.

10 Q. Is it correct that prior to the February
11 agreement, February 2002 agreement, you, the
12 County, was paying Nextira approximately \$7,300,000
13 a year; is that an accurate statement?

14 A. It sounds right, yes.

15 Q. What was the County, if you recall,
16 because you mentioned the County was getting a
17 10 percent commission, what was the gross amount of
18 that commission, roughly? Do you recall?

19 A. It was about \$200,000 a year. The gross
20 was -- I think it was estimated during the
21 negotiations at 2.3 million a year that they
22 received gross. So we were getting 10 percent of
23 that, approximately \$200,000 plus.

24 Q. Right.

25 But the money that the County was

1 getting was only a percentage of what Nextira was
2 receiving from the tenants?

3 A. That's right.

4 Q. Other than the County?

5 A. No, no, what we were paying them.

6 Q. Separate?

7 A. That was only to the people that was
8 outside, anybody that wasn't part of the aviation
9 department outside the County.

10 Q. Right.

11 In other words, the County paid Nextira
12 roughly \$7,300,000 for the services that Nextira
13 was providing to the County?

14 A. Right.

15 Q. And then the County received a couple
16 hundred thousand dollars from Nextira as a
17 commission for allowing Nextira to provide services
18 to tenants at the airport?

19 A. That's right.

20 Q. My numbers could be slightly off but --

21 A. Essentially that's what that is.

22 Q. And pursuant to the deal that the County
23 made with Nextira, the County was buying the
24 equipment but was going to receive all the revenue
25 and it was going to pay Nextira for work that

1 Nextira did?

2 A. That's right.

3 Q. And that Nextira deal -- David, make
4 sure I don't step over the line because I don't
5 want to go over -- February 2002 agreement is still
6 in place?

7 A. Is still in place.

8 Q. Right.

9 There is an RFP that's under
10 consideration for a new manager?

11 A. It is in place until -- I believe the
12 expiration is February 6th of 2004.

13 Q. But the County has an RFP out for a new
14 manager?

15 A. Yes, sir.

16 (Discussion off the record)

17 BY MR. BLOOMBERG:

18 Q. Turn to Page 4 of that agreement just so
19 I --

20 MR. HOPE: This one?

21 A. This one.

22 Q. Talks about SATS revenue. Page 4 in the
23 middle of the page.

24 Does that sound about right, the gross
25 revenue under SATS was roughly \$2,670,000?

1 A. Yeah.

2 Q. So the County got 2,670,000 and paid out
3 7,300,000?

4 A. That's right.

5 Q. Did you or people working with you do
6 any kind of pro forma analysis as to what the
7 County was going to receive under the agreement,
8 the 2002 agreement?

9 A. Receive? Well, yeah, the -- actual --
10 the 2.6 million, it would now become --

11 Q. It's County money?

12 A. County revenue.

13 Q. Either up or down?

14 A. And then from that you subtracted, you
15 know, the projection was to pay whatever it was
16 agreed to pay Nextira for that. And that was
17 basically the business deal.

18 Q. The money that was to be paid to
19 Nextira, how was that calculated?

20 A. You mean for the equipment?

21 Q. No, I'm saying --

22 A. For the monthly fees for them?

23 Q. Yes.

24 A. It was basically a summation of their
25 basic costs for their staff, then the loaded

1 benefits and anything else that they need for that
2 and then a profit on top of that, plus any other
3 what they call third-party agreements that they had
4 in order to do the business at the airport with all
5 the companies that they needed and then they put a
6 markup on that.

7 There was also a 14-percent markup on
8 any other subcontractor agreements that they used
9 to provide services. They tag on a profit to that.
10 And so basically that constituted the --

11 Q. All right. So the first year of the
12 agreement, can you give me, if you know -- how did
13 that work out economically, the first year of the
14 agreement, and we just passed over the first
15 year's. Give me your best guess or --

16 A. The first year of the agreement, the
17 actual -- okay. As far as the STS business?

18 Q. Right, the STS business.

19 A. I believe that the revenue is now,
20 including CUTE and everything else, about
21 2.4 million.

22 Q. Okay.

23 A. And we lost about \$300,000 in the STS
24 part.

25 Q. So you paid Nextira 2,700,000 the first

1 year?

2 A. It cost us 2 million seven.

3 Q. Does that include the amortization for
4 the equipment?

5 A. No, no -- no, the equipment was bought
6 out by a price of \$6 million. This was just
7 operating expenses.

8 Q. All right.

9 A. And the operating expenses, basically we
10 came out short on the -- just for the STS -- the
11 SATS part which included CUTE or STS. I believe we
12 came out short about \$300,000 less the first year.

13 Q. How is the second year going?

14 A. We just finished the first year as of
15 February, so we don't have the numbers yet for
16 March and April.

17 Q. All right. But obviously the loss of
18 \$300,000 was a lot better than paying \$7 million?

19 A. Yes, it was definitely.

20 Q. Definitely an improvement?

21 A. Yes.

22 MR. BLOOMBERG: Okay. Just so we can
23 keep the record separate, let me mark this as
24 the next exhibit.

25 (Plaintiff's Exhibit 12 was marked for

1 identification.)

2 BY MR. BLOOMBERG:

3 Q. Let me show you what's been marked as
4 Exhibit 12 which purports to be a copy of the
5 Resolution 31.02 which as I understand it is the
6 resolution -- it may not be a complete copy, but it
7 looks like the resolution -- and I'm not trying to
8 trick you. It looks like the resolution that
9 approved the February agreement.

10 Do you have a Page 9 there, a
11 handwritten Page 9?

12 MR. HOPE: Right.

13 Q. We'll just add that to Page 9. I
14 believe that's the agreement. Yes, the copy didn't
15 come out good for some reason.

16 A. Okay.

17 Q. Does that appear to be the resolution
18 that approved the agreement?

19 A. Yes.

20 (Plaintiff's Exhibit 13 was marked for
21 identification.)

22 BY MR. BLOOMBERG:

23 Q. Let me show you what's been marked
24 Exhibit 13 for purposes of the deposition, ask you
25 to take a look at that and tell me if you recognize

1 it.

2 A. Yes.

3 Q. And is that what we've referred to as
4 the Nextira Agreement or a copy of the Nextira
5 Agreement?

6 A. It seems to be, yes. It's supposed to
7 be. If there's something missing, it's certainly
8 unintentional.

9 Q. And are you familiar with that
10 agreement?

11 A. Yes, sir.

12 Q. Were you involved in the preparation or
13 the drafting of the agreement?

14 A. Yes, I was.

15 Q. And to your knowledge, was that the
16 agreement that was approved by the Board of County
17 Commissioners?

18 A. Yes, it was.

19 Q. And is that your agreement, to your
20 knowledge, that the County and Nextira had been
21 operating under on or about February 2002?

22 A. Yes, it is.

23 Q. And is that the agreement that you
24 understand that basically put the County in the
25 telephone business?

1 MR. HOPE: Objection to form.

2 A. This is the agreement that provides for
3 the MDAD providing telecommunications services to
4 tenants of the airport.

5 Q. Okay. Both voice and network?

6 A. Both voice and network and other things,
7 CUTE and --

8 Q. Just for my information, CUTE, would you
9 refer to CUTE as a network?

10 A. No. CUTE is really not considered
11 telecommunications or network. CUTE uses a network
12 but CUTE also has lots of equipment outside the
13 network, and it's a service that uses a network
14 just like even the public address system and
15 everything else that uses a network.

16 Q. All right. And as of now, as we speak
17 today, the County and NextiraOne are still
18 operating under this agreement?

19 A. Yes.

20 Q. And will do so until the agreement
21 expires, which I believe is sometime next year?

22 A. February of next year.

23 Q. Bottom of the first page there's a
24 description of a project, and what's your
25 understanding of what that means? What are we

1 talking about?

2 A. Well, basically it's pretty much what it
3 says here; provide for the operations and
4 maintenance and provisioning of the equipment to
5 support the services provided, including
6 telecommunications, network, CUTE and other
7 services provided using that infrastructure.

8 Q. Okay. Who was involved, if you know, in
9 the negotiations between the County and -- who
10 conducted the negotiations between the County and
11 Nextira?

12 A. The negotiations was actually a room
13 full of people.

14 Q. Okay.

15 A. Included, I was there, counsel was
16 there.

17 Q. When you say counsel, you're referring
18 to David?

19 A. David Hope. My boss, Maurice Jenkins,
20 Bobbie Phillips, the assistant director, Delmer
21 Wittington (phonetic), the manager of the contracts
22 division, Marie Clark, my counterpart, chief of the
23 contract division, Sue Sambasco (phonetic), who is
24 an officer of that division also that does
25 contracts. And then the folks from -- the team

1 from NextiraOne.

2 Q. Do you recall any of the people from
3 Nextira?

4 A. Pedro De Camillo, the manager was there,
5 the -- give me a second. Scott Drewy (phonetic),
6 he's the -- one of the corporate folks that were
7 dealing with that. Juan Shapo was there, I
8 believe, the attorney. And -- and Bill McGlashan,
9 he's basically the big boss of the operation at the
10 airport but he resides in corporate.

11 Q. When did these negotiations start,
12 approximately, as the first conversations that led
13 up to this agreement? And if you can't give me a
14 date, you can tell me five months, six months --

15 A. At the end of -- sometime in the fourth
16 quarter of 2001.

17 Q. And the entry into this agreement would
18 resolve any prior disputes between Nextira and the
19 County; is that correct?

20 A. Yeah, the intent was to start with a
21 clean slate.

22 Q. If you go to the definitions section
23 which starts on Page 2 of 98. Down at the bottom
24 it identifies there's airport, and we discussed
25 earlier obviously Miami International and you

1 mentioned Opa-Locka and Tamiami.

2 This particular document also refers to
3 other general aviation airports, Kendall, Tamiami,
4 and the training and transition airport in
5 Opa-Locka West.

6 Is there any telecommunications services
7 provided by the County to any of those other
8 airports?

9 A. The two airports that we have a direct
10 connection to, which is Opa-Locka and Tamiami. The
11 other ones basically have a self-contained system
12 connected to BellSouth lines.

13 Q. Basically it's to the airports within
14 the county?

15 A. I'm sorry. What was the question?

16 Q. These are the five airports, the
17 airports that are listed --

18 A. That are owned by the County.

19 Q. -- in Paragraph 1.305 airports within
20 Dade County, within the geographical limits of the
21 county that are owned by the County?

22 A. Right.

23 Q. Paragraph 1.20 on Page 4 talks about
24 equipment charges.

25 Did the County charge or does the County

1 pursuant to this agreement charge its customers for
2 equipment rental? In other words, I'm a customer
3 at the airport and I want a phone. I go to the
4 County and say I need a new phone; do you charge
5 them for that phone?

6 A. Give me a second to read this.

7 Q. Okay.

8 A. Okay. What was the question?

9 Q. And now we're just talking about
10 subsequent to this agreement.

11 Does the County charge a rental fee to
12 its customers for rental of equipment?

13 A. Yes.

14 Q. Okay. So if I'm a tenant at the airport
15 who's using the County services and I need a new
16 phone, you charge me whatever that charge is. You
17 charge me for the use of that phone?

18 A. If you choose to use the airport as a
19 service provider.

20 Q. Right, and as a service provider.
21 Obviously if they're using somebody else, you can't
22 charge them for it. But if I choose to use MDAD as
23 my service provider at the airport, I get charged a
24 rental fee for the use of the telephone?

25 A. You will be given a proposal, and if you

1 accept the proposal, you will be charged for the
2 services, yes.

3 Q. To --

4 A. -- a rental fee, right.

5 Q. To your knowledge, do other service
6 providers, other telecommunication service
7 providers charge rental fees for the use of their
8 agreement?

9 A. Yes, they do.

10 Q. The pricing may be different, but is
11 there anything different -- the actual rental fee
12 may be different, but is there anything different
13 about what the County charges, to your knowledge,
14 for rental of its equipment as opposed to any other
15 telecommunications provider?

16 A. Okay. There's many ways to charge for
17 the services and we know what we -- how we charge
18 it. I cannot -- I cannot say that there's -- that
19 there's a lot of difference or little difference.
20 Every vendor will have a different way to charge
21 this.

22 Q. What I'm really getting at, and it's
23 probably a poor question, to your knowledge, other
24 telecommunications providers charge some sort of
25 fee for the use of their equipment as well?

1 A. Yes, they do.

2 Q. I mean that's a part of your business?

3 A. Yes.

4 Q. Paragraph 1.22 refers to gross revenue.

5 As I understand it, was the County
6 receiving all of the gross revenues from the
7 tenants initially under this agreement or --

8 A. After the agreement was executed?

9 Q. Right.

10 MR. HOPE: Objection to form.

11 Q. After the agreement was executed and you
12 started operating under the Nextira Agreement, who
13 got paid by the customers?

14 A. The customers' gross revenue then came
15 into -- came to the airport instead of NextiraOne.

16 Q. It came to MDAD, and then MDAD paid
17 whatever was paid to NextiraOne --

18 A. Right.

19 Q. -- as opposed to previously, money went
20 to --

21 A. NextiraOne and we got the 10 percent
22 commission.

23 Q. Paragraph 1.32, shared airport tenant
24 services. The provision of service which
25 duplicates or competes with local service provided

1 by existing local exchange telecommunications
2 company and is furnished through a common switching
3 or billing arrangement to tenants by an entity
4 other than an existing local telecommunications
5 company.

6 Can you explain that to me? I'm a
7 little slow.

8 A. Well, it's basically saying that we can
9 provide a dial tone that you receive on your
10 telephone, among other services, basically, and we
11 basically compete with what the local exchange
12 carrier would do. I mean you can go to services to
13 a local exchange carrier, to us, or to any other
14 company that provides those services.

15 Q. The local exchange carrier being
16 BellSouth?

17 A. Yes.

18 Q. Is BellSouth the only local exchange
19 carrier?

20 A. It's the only local exchange carrier.
21 The other ones are alternate local exchange
22 carriers.

23 Q. In terms of drafting the agreement, then
24 why, if you know, did it say service provided by
25 the existing local exchange telecommunications

1 company as opposed to saying service provided by
2 BellSouth?

3 A. I would imagine the wording was probably
4 taken from the definition that is existing in the
5 Florida Statute or SATS, STS.

6 Q. But clearly the reference to existing
7 local exchange telecommunications company, is it
8 fair to say that that is a clear reference to
9 BellSouth?

10 MR. HOPE: Objection to form.

11 A. The -- yes, it looks that way, but the
12 reason is that at the time that this was written,
13 the wording of the statute was probably written
14 before competition was allowed. So the only
15 provision at the time was the local exchange
16 carrier --

17 Q. Okay.

18 A. -- and this was just taken from that
19 just to be accurate, to have some meaning --

20 Q. Right. But what I'm saying is the only
21 existing local exchange telecommunications company
22 referred to in Paragraph 1.32 is BellSouth; is that
23 correct?

24 MR. HOPE: Objection to form.

25 A. In Miami-Dade County.

1 Q. Well, this agreement only refers to
2 Miami Dade County, doesn't it?

3 A. Well, I'm trying to be accurate.

4 Q. I understand. I understand. I mean the
5 agreement itself is only operating in Miami-Dade
6 County; correct? Your agreement with Nextira is to
7 cover airports in Miami-Dade County, not anything
8 else?

9 A. Actually the way -- it's anybody that
10 can provide dial tone to -- to access to a public
11 network. That's what it refers to the local
12 exchange -- local exchange -- an existing local
13 exchange telecommunications company. So you can
14 get dial tone from MCI or anybody else. So that's
15 what it's --

16 Q. And clearly shared airport tenant
17 services contemplates the competition between
18 various telecommunications providers; is that a
19 fair statement?

20 MR. HOPE: Objection to form.

21 A. I'm sorry. Can you --

22 Q. Let me rephrase it.

23 This paragraph makes reference to the
24 fact that the services that MDAD is going to
25 provide compete with other providers?

1 A. Yes.

2 Q. Okay. Because they're providing similar
3 services?

4 A. Yes.

5 Q. MDAD is providing services similar to
6 other providers?

7 MR. HOPE: Objection to form.

8 A. Yes. I'm assuming in all of this,
9 you're keying on telecommunication services and the
10 airport provides not only those but a lot of other
11 services to them from the airport. But your
12 question was specifically directed towards the
13 telecommunications --

14 Q. Yes. The fact that the airport provides
15 in-flight communications to people --

16 A. No. I'm saying monitors for flights and
17 additional microphones, others -- we provide
18 everything that we can provide to tenants of the
19 airport, and telecommunication is just one of those
20 things.

21 Q. Right.

22 We're talking about telecommunications
23 here.

24 A. Okay.

25 Q. Now, if you turn to Article 4 which

1 begins on Page 10 of the agreement, it talks about
2 what contractor is required to provide. Do you see
3 that just starting off above the letter A? And the
4 contractor is NextiraOne?

5 A. Um-hum.

6 Q. And there's a list of what NextiraOne is
7 going to be doing; is that correct?

8 A. Yes.

9 Q. And those are all operations that
10 NextiraOne is going to be providing under the
11 supervision and control of MDAD?

12 A. Yes.

13 Q. Was MDAD the final authority, in other
14 words, MDAD had to approve things?

15 A. Yes, MDAD is the final authority and the
16 County as far as --

17 Q. Well, the County --

18 A. Right.

19 Q. And all of these things that Nextira is
20 supposed to do pursuant to this agreement are
21 things that a telecommunications company, telephone
22 utility would also do --

23 MR. HOPE: Object to form.

24 Q. -- is that a fair statement?

25 A. No. Like I said, the MDAD provides

1 services to the tenants way in addition to whatever
2 the telecommunications companies do.

3 Q. Okay.

4 A. And I'm not talking about in-flight
5 services. We don't provide that.

6 Q. Let me rephrase the question.

7 MDAD is providing a greater amount of
8 services than a telecommunications company would
9 do?

10 A. Yes.

11 Q. Some of the services that MDAD provides
12 through NextiraOne are the same services that a
13 telecommunications company would provide?

14 A. That's correct.

15 Q. For example, manage the existing voice
16 and data is something that a telecommunications
17 company would do?

18 A. If we engage them to.

19 Q. Could do?

20 A. Yes, could.

21 Q. Routine installations of telephone lines
22 are something that a telecommunications company
23 would do?

24 A. Yes.

25 Q. And I understand that MDAD does more

1 than the telecommunications company but --

2 A. When we say telecommunications company,
3 it's any telecommunications company.

4 Q. Yes.

5 Okay. If you turn to Page 28 of the
6 agreement --

7 A. Okay.

8 Q. -- there is the letter big -- capital D
9 towards the top of the page, shared tenant service.
10 Contractor agrees to use its best efforts to
11 establish, market, maintain, operate and manage
12 SATS for the County, including CUTE, to tenants and
13 users at the airport consistent with the
14 requirements of the Public Service Commission of
15 Florida or whatever other governmental entity has
16 jurisdiction over SATS and if and where applicable
17 and all applicable laws.

18 How does that paragraph of the agreement
19 square with the fact that the County had made a
20 decision it did not need certification of the
21 Public Service Commission?

22 A. Well, the decision that the County made
23 was based on the interpretation of the Florida
24 Statutes of -- as it refers to the SATS business,
25 and it was interpreted that we didn't need

1 certification because the airport is exempt from
2 that certification.

3 Q. Then why was that paragraph, to your
4 knowledge, in the agreement, if you know?

5 A. We were trying -- we were trying to
6 convey to the vendor and the people that were not
7 knowledgeable in this business, to the best that we
8 could, the scope of this agreement, and that was
9 deemed to be burdening to define what the shared
10 tenant services is.

11 Q. Did Nextira have a certification from
12 the Public Service Commission to provide services
13 at the airport, telecommunications --

14 A. I cannot be sure. To the best of my
15 knowledge, I've never seen one. I'm now aware of
16 it.

17 Q. To your knowledge, would they have been
18 required to do so?

19 A. I don't really know because I've never
20 looked at it from a vendor point of view whether
21 they need one or not.

22 Q. To your knowledge, does BellSouth have a
23 certificate to provide services at the airport? Do
24 they need a certificate?

25 A. I don't know whether they do or not.

1 Q. But you don't know if anybody needs one;
2 is that a fair statement?

3 A. To my knowledge, I don't believe a
4 telecommunications company would require any
5 specific permission to do their business anywhere.
6 They need to be licensed by the P.S.C. to operate
7 in Florida. But specifically as to the STS, I
8 don't believe they need specific permission.

9 Q. Page 29, No. 4, the contractor shall
10 submit a proposed tariff schedule for all SATS.

11 To whom was the contractor supposed to
12 submit a proposed tariff schedule?

13 A. To MDAD, to the County.

14 Q. And what was that tariff schedule
15 supposed to reflect?

16 A. It should reflect the prices for the
17 services that they were going to charge the
18 customers.

19 Q. And why do you use the word tariff?

20 A. Tariff in the telecommunications
21 business is basically a price list.

22 Q. A term of art in the business; is that a
23 fair statement?

24 A. Yeah, it's a term used in the business
25 for telecommunications prices. In reality, legally

1 it probably means something approved by the P.S.C.
2 and so forth. But in this case, it was just meant
3 to be a price list. Page 49 refers to personnel.

4 Q. And it talks about the contract of
5 Nextira providing a staff of 38 people. Is that
6 roughly the same number of people that are there
7 now?

8 A. Yes.

9 Q. And if I went through this list, and we
10 don't have to go through it, basically those are
11 the job descriptions of what those people are
12 supposed to be able to do?

13 A. Yes.

14 Q. All right. So installers, technicians
15 and managers and customer service-type people?

16 A. That's right.

17 Q. Just like any other business, any other
18 telecommunications --

19 A. Yes.

20 MR. HOPE: Objection to form.

21 Q. On Page 50, B, capital B, one of the
22 things that the contractors are required to provide
23 are technicians and installers that are totally
24 familiar with the installation, repair and names of
25 various types of telephone systems.

1 Why was that?

2 A. Why was that?

3 Q. Why do you want telephone installers?

4 A. Because we were going to install
5 telephone equipment and wiring and infrastructure
6 to provide telephone services.

7 Q. And the technicians were supposed to be
8 factory-certified; is that correct?

9 A. Yes, they need to be to -- in order
10 to -- if you're going to access the PBX switches,
11 the vendor requires that you have certification;
12 otherwise, your warranty and everything else is
13 void.

14 Q. And who provided the certifications?

15 A. The manufacturer of the equipment which
16 in this case was Nortel.

17 Q. The Page 69, the second paragraph above
18 Article 15, the County was responsible for making
19 all policies and decisions; is that correct?

20 A. Yes.

21 Q. That's because Nextira was a
22 subcontractor?

23 A. Yes, that's right.

24 Q. If you turn to Exhibit 6 which is
25 towards the -- well, it's probably the 30th or 40th

1 page after the agreement. I wish I could help you
2 out. There's no numbers. It's part of the
3 agreement but it's after a bunch of exhibits.

4 A. This is after this big thing.

5 Q. Before you get to that, go to Page 74 of
6 the agreement.

7 A. Before you get to 74 --

8 Q. No, go to 74 first. I had a question
9 about Page 74, Article 21, the assignment.

10 A. Yes.

11 Q. All right. As I understand it,
12 effective with this agreement, all of the entities
13 or tenants that have been customers of Nextira or
14 Williams or whatever it was became direct customers
15 of the County pursuant to an assignment of their
16 contracts; is that correct?

17 A. That's correct.

18 Q. So in other words, the relationship, as
19 you understood it, was to be a direct relationship
20 between the tenant and the County?

21 A. Actually, the actual tenants were not
22 involved in this and Nextira basically by virtue of
23 this contract assigned those contracts.

24 Q. To the County?

25 A. Yes.

1 Q. Now if you go to Exhibit 6, which is
2 your customer list, it has airport CUTE
3 agreements --

4 A. Right.

5 Q. -- right?

6 Were those the customers of Nextira that
7 were assigned to the County, as best as you
8 understood it?

9 A. To the best of my knowledge, this was
10 provided by them.

11 Q. And essentially I'm not asking you to
12 prepare it. It's looks to be similar to the 2003
13 list that we looked at earlier?

14 A. That's right. It should be.

15 Q. It should be. It may not be but it
16 should be.

17 How were the customers, the tenants
18 notified of this particular transaction?

19 A. I believe a letter was sent to all the
20 customers telling them that the ownership of
21 equipment and everything else was MDAD -- I mean
22 the aviation department and not NextiraOne.

23 Q. Let me see the agreement -- no, no, the
24 rest of that. Some of it should be marked
25 separately. This goes with the agreement. You

1 don't need to look at this anymore. You may want
2 to put it together and put a rubber band around it.

3 (Plaintiff's Exhibit 14 was marked for
4 identification.)

5 BY MR. BLOOMBERG:

6 Q. Let me show you what's been marked as
7 Exhibit 14, ask you to take a look at that.

8 A. Okay.

9 Q. Do you recognize?

10 A. Yes, I do.

11 Q. You mentioned briefly, before I
12 interrupted you, a letter went out to the
13 customers. Is that a copy of what apparently was
14 the letter?

15 A. Yes.

16 Q. And that letter advised the customers
17 that basically the County was now taking over the
18 operation of their agreements, with the customers'
19 agreements with Nextira?

20 A. Yes.

21 Q. And in the middle of the page, the
22 bracketed paragraph, accordingly, simultaneously
23 with the effective day of the assignment and in
24 accordance with the agreement, NextiraOne will no
25 longer be responsible under the agreement, although

1 it will provide management services regarding the
2 agreement as has been requested on behalf of the
3 County; is that right?

4 A. That's right.

5 Q. And the agreement referred to in that
6 paragraph is the agreement we just talked about,
7 the NextiraOne County Agreement?

8 A. That's correct.

9 Q. And Mr. Jenkins, who signed the letter,
10 is advising the tenants that we could also
11 competitively bid any changes. If you want
12 additional services, happy to provide them, so to
13 speak?

14 A. That's correct.

15 Q. After the agreement was entered into,
16 the Nextira agreement, do the customers now make
17 payments of their invoices or bills to the County?

18 A. Yes, they do.

19 Q. And the letter refers to an open house
20 for customers down at the bottom there. What was
21 that open house for?

22 A. It basically was a -- like a meeting, an
23 open meeting which invited the tenants of the
24 airport -- to basically reiterate what the letter
25 said.

1 Q. Who was at the meeting?

2 A. I don't recall. A few -- you know,
3 several tenants came and folks from NextiraOne,
4 Maurice Jenkins, myself. It was basically to try
5 reiterate, like I said, what the letter said, that
6 MDAD was now the service provider.

7 (Plaintiff's Exhibit 15 was marked for
8 identification.)

9 BY MR. BLOOMBERG:

10 Q. And did you correspond with the
11 customers after the open house? And I'm not trying
12 to trick you. Let's -- it's not a guess.

13 A. We try to -- yeah, there was one or two
14 more letters that were -- yeah, information things
15 to -- like, yeah, this is one of them, where to
16 call and so forth.

17 Q. Right.

18 That's Exhibit 15?

19 A. Right.

20 Q. And that was a letter written by
21 Nextira?

22 A. Yes, on our behalf, just to let them
23 know to improve the customer service.

24 Q. And also let them know, here's who you
25 make the payments to?

1 A. Right.

2 Q. Important stuff?

3 A. Yes.

4 Q. And when did the County start purchasing
5 the equipment from Nextira? Right after the
6 agreement?

7 A. It was basically done when the contract
8 was closed, February 6, 2001. There was a price
9 agreed for and moneys exchanged and --

10 (Plaintiff's Exhibit 16 was marked for
11 identification.)

12 BY MR. BLOOMBERG:

13 Q. Let me show you Exhibit 16 which is
14 apparently a memorandum dated August 14, 2002 from
15 Zeida Hernandez to you and ask you if you recognize
16 that document.

17 A. Yes.

18 Q. And what is it, sir?

19 A. This was regarding the inventory of
20 equipment at the airport that we had purchased from
21 NextiraOne which we're now in the process of
22 identifying or taking to basically show it belonged
23 to the airport now instead of Nextira.

24 Q. All right. So as I understand it, this
25 is basically a list -- the bulk of this document is

1 101 pages of identifying equipment that was
2 purchased by the County?

3 A. That's correct.

4 Q. For example, on the first page, it's
5 whatever this piece of equipment is is now a piece
6 of equipment owned by the County?

7 A. That's right.

8 Q. And it's telling you where it is and
9 what it is and so forth and so on?

10 A. That's right.

11 Q. And the County bought all of this
12 equipment from Nextira?

13 A. Yes.

14 This is all the equipment that exists
15 within the -- within the facility of the Miami
16 International Airport.

17 Q. Supposedly?

18 A. Yes.

19 Q. And this was the agreement up to
20 February 6, had been owned by Nextira, is now owned
21 by the County?

22 A. That's right.

23 Q. And this is the equipment that the
24 County now rents out to some of its customers or --

25 A. To provide our own services and to the

1 customers that use this equipment.

2 MR. BLOOMBERG: Let's take about two
3 minutes.

4 (A break was taken.)

5 - - - - -

6 A luncheon recess is taken at 11:42 p.m.

7 - - - - -

8 Afternoon Session

9 May 21, 2003

10 1:05 p.m.

11 - - - - -

12 (Ms. Liebman is not present but Ms. Kay
13 is now present.)

14 BY MR. BLOOMBERG:

15 Q. Mr. Garcia, since the agreement, the
16 Nextira Agreement in February, how are customers
17 billed? What's the billing process? And I say
18 customers, the tenants, the STS customers?

19 A. Right. They're billed every month.
20 NextiraOne submits -- prepares the invoices and
21 then they get routed to us and then they go to the
22 finance -- the MDAD finance department who actually
23 mails the bills to the tenants.

24 Q. And prior to the Nextira Agreement they
25 were billed directly by Nextira --

1 A. That's correct.

2 Q. -- and didn't have much knowledge of
3 that process and you weren't involved in it;
4 correct?

5 A. Yes.

6 Q. Were there standard forms used for the
7 bills?

8 A. There's a bill form, yes. I believe
9 there's a bill form used for the bills.

10 MR. BLOOMBERG: All right. Let's mark
11 this as a composite.

12 (Plaintiff's Exhibit 17 was marked for
13 identification.)

14 BY MR. BLOOMBERG:

15 Q. Let me show you what's been marked as
16 Composite Exhibit 17, ask you to go through them
17 and just tell me whether or not these appear to be
18 copies of invoices to various STS customers, and
19 then we'll go through one of them and we'll ask
20 questions about one of them. But I just want to
21 make sure that they're all the same kind of form.
22 And I will tell you the black marks, the
23 redactions, are not mine. That's the way they were
24 given to me.

25 A. Okay.

1 Q. All right. Do those appear to be
2 invoices to customers?

3 A. Yes.

4 Q. All right. Let's look at the first one
5 which bears the Bates No. 009794 at the bottom of
6 the page and we'll just go through that.

7 Top of the page says Miami-Dade Aviation
8 Department (SATS Standardized Billing Form), I
9 guess that is. Look at the first page. Is that
10 correct? Is that a County form?

11 A. Yes.

12 Q. Does the customer receive this page?

13 A. Yes.

14 Q. All right. We have an invoice date --
15 all right. So that's the date of the invoice?

16 A. Yes.

17 Q. Billing period is for in this case
18 March 7th through April 6th, '02?

19 A. That's the billing period, right.

20 Q. What is this record number? What does
21 that indicate?

22 A. I'm not sure. That may be some internal
23 number that Nextira uses for some control.

24 Q. Prepared by TDennis. Who is Dennis?

25 A. Tracy Dennis, that's an NextiraOne

1 employee, the one that does the billing.

2 Q. Okay. Telephone number, now which
3 telephone number --

4 A. That's Tracy Dennis' telephone number.

5 Q. Customer ID would be some number --

6 A. Right.

7 Q. -- which is blacked out?

8 A. That's assigned by the MDAD Finance
9 Department.

10 Q. Whatever number that is is the number
11 for that particular customer which matches up with
12 the company name?

13 A. Correct.

14 Q. So that number would be the same on the
15 next billing period and the next billing period and
16 so forth?

17 A. Correct.

18 Q. Company name would be ABC, Inc. or
19 whatever the customer is?

20 A. That's right.

21 Q. Contact name would be the individual
22 who --

23 A. In the -- in the customer, the company
24 that basically would contact us or we contact them
25 if we have any kind of a question.

1 Q. Okay. Phone number is the customer's
2 phone number?

3 A. Yes.

4 Q. And the billing address would be where
5 it's going to?

6 A. Right.

7 Q. Okay. Usage code, the first one says
8 Nexren; what is that?

9 A. It's probably an abbreviation from a
10 Nextira rental and then the other one, Nexing would
11 be Nextira -- I can't remember what I-N-G stands
12 for. It's just the way that they divide the
13 billing, probably between billing and let me
14 guess -- I can't remember what the I-N-G stands for
15 but it's just --

16 Q. And then we have a total -- I haven't
17 done the math but it looks to be right. And then
18 Attach the Schedule E summary to the invoice. What
19 is that, do you know?

20 A. I would assume that they want -- a
21 Schedule E normally means the equipment that has
22 been -- that's been rented. In this case I'm not
23 sure what -- you know, why is it there. Some of
24 these things may be -- even though it doesn't say
25 so, it might be the equipment that's been rented,

1 the next page that has the list of equipment.

2 Q. All right. And if we turn to the next
3 page, now the first form we looked at was a form
4 prepared by the County?

5 A. Nextira prepares on our behalf.

6 Q. But it's a County form, the Miami-Dade
7 Aviation Department?

8 A. Yes, we want to show the name of the
9 company that's providing the service.

10 Q. And this first Page 9794 is one of the
11 pages of the invoice that goes to the customers?

12 A. Yes.

13 Q. The second page, 9795 has NextiraOne in
14 the right-hand corner; correct?

15 A. Right.

16 Q. And does that page also go to the
17 customer?

18 A. Yes.

19 Q. Okay. On that page then the billing
20 period, a monthly rental and some discount -- now,
21 what does this coverage full-serve mean? I guess
22 the fourth line down. Do you know what that means?

23 A. It's the designation that Nextira uses
24 that defines the level of service that they would
25 provide the customer, like repairs are included.

1 It's just like a marketing name for the source.

2 Q. Okay. Now, this customer also has long
3 distance charges, it says 642.29?

4 A. Right.

5 Q. And then monthly rental of 745.46?

6 A. Right.

7 Q. Which seem to match up with the numbers
8 on the prior page?

9 A. Right. The reason is because the long
10 distance is a pass-through and we actually have a
11 markup or we can say make profit on the rental.
12 But the long distance charges we don't -- we don't
13 add anything to it. That's why we separate the two
14 things.

15 Q. It would appear that Nexing on the first
16 page of this exhibit has something to do with the
17 long distance numbers, doesn't it?

18 A. It looks that way, yes.

19 Q. But you're not sure?

20 A. This form was basically inherited from
21 Nextira when they used to bill us. We didn't
22 really change the format. We just put the title
23 here and use the same --

24 Q. And you're still using the same form?

25 A. Yes.

1 Q. Now, down below the values or the costs
2 we have a series of columns which looks to be
3 equipment. Is that equipment that they're using?

4 A. Yeah, these are the equipment -- the
5 different types of equipment, phones, ports,
6 et cetera, these are the quantities and then the
7 price per month, the yearly price and then the
8 discounted --

9 Q. Okay. So this is the equipment that
10 this particular customer rented during that
11 particular period of time?

12 A. I'm sorry. It's not the year. The
13 extant that is the total when you multiply the unit
14 times the quantity.

15 Q. But there's some discount for some
16 reason to this customer?

17 A. Right. To make them feel good. There
18 were some deals that are made. Like anything you
19 do, you don't want to pay retail. You want a
20 discount.

21 Q. Right. But the list of equipment,
22 Meridian One Port, Advanced Features Conference
23 Calling, these are all equipment or services --

24 A. That's right.

25 Q. Let me finish. It makes the record very

1 sloppy -- that this particular customer utilized
2 that month?

3 A. Yes.

4 Q. And the second page of this equipment is
5 also a part of the bill that goes to the customer?

6 A. Yes.

7 Q. The third page which bears the number
8 9796 and there's a series of pages like it
9 afterwards. It says Miami International Airport
10 STS detail, SMDR Date/Time is within the last one
11 month(s)-Abs; what does that mean?

12 A. Well, STS is Shared Tenant Services.

13 Q. Right.

14 A. SMDR is -- let's see what it stands for.
15 It's the -- SMDR is the software that in
16 the -- in the telephone switch that accumulates the
17 records of the calls.

18 Q. Okay.

19 A. And that -- this is taken from the
20 switch itself. It stores it in the database of all
21 the calls that are made and then it's sorted out by
22 who makes them, and then this is the detail of the
23 long distance calls that this customer has made
24 from the numbers.

25 Q. Now, Division 3P0L, what is that?

1 A. I don't really know, to be honest with
2 you, what that really means. That could be a
3 designation by Nextira to keep track of the
4 accounts.

5 Q. And then whatever is after department is
6 redacted, is blacked out, but what is that, do you
7 know? I don't want to ask you for the specific
8 name of a customer, but if this were not blacked
9 out, what would I see there?

10 A. The name of the customer.

11 Q. The department is the name of the
12 customer?

13 A. Right.

14 Q. And is this the customer's long distance
15 bill?

16 A. It appears to be, yes.

17 Q. So for example, what it's telling me is
18 that on March 8th, 2002, 3:25 the customer made a
19 52 second long call to a number in Long Beach,
20 California --

21 A. That's right.

22 Q. -- and was charged 6 cents for that
23 call?

24 A. That's right.

25 Q. And this would be on a daily -- this is

1 a daily sheet?

2 A. This is a monthly bill.

3 Q. The detail.

4 A. Since the information is not here, it's
5 probably -- every one of these pages probably --
6 it's what each number -- the numbers that each
7 telephone number dial by month. So it's by
8 telephone number.

9 Q. By telephone number?

10 A. This individual sheet, if somebody in
11 this office has this number made this eight calls
12 or whatever.

13 Q. Right.

14 And if I were the customer, I would
15 receive this on a monthly basis?

16 A. Yes.

17 Q. Just like I receive my phone bill from
18 BellSouth or AT&T or whoever else it might be?

19 A. Yes.

20 Q. And you said these are pass-throughs.
21 There's no profit on this?

22 A. That's correct.

23 Q. The County gets billed by?

24 A. By BellSouth or MCI, whoever carries the
25 long distance, by this amount, and we just pass it

1 through.

2 Q. Why not put a markup on it?

3 A. We just don't.

4 Q. Has a decision been made not to do that,
5 or is that because the contract between NextiraOne
6 and its customer --

7 A. I don't really recall why we don't do
8 that, but the decision was made not to do it. I
9 can't --

10 Q. To your knowledge, is there anything
11 legally that prohibits you from doing that?

12 A. I don't know of anything legal that
13 prohibits us from doing that. It could have been
14 just a marketing decision not to put an additional
15 expense to the customers. So they're getting the
16 other services from us and let them have the long
17 distance at cost. I mean that's what -- what I
18 think it is the reason why it was done that way.

19 Q. And bills would go out essentially every
20 month to the customer?

21 A. Right.

22 Q. And money is supposedly paid to the
23 County directly?

24 A. Yes.

25 Q. Let me ask you to go to the second --

1 actually, it would be the big number on -- it
2 should be 006551.

3 A. Yes.

4 Q. On the bottom of the first page, there's
5 attached Schedule E summary, L/D detail, CSO to the
6 invoice. What does that mean? Because it's a
7 little different than the prior document.

8 A. Well, again, the E summary is the
9 summary of the equipment that you're renting, the
10 long distance detail is all these sheets with the
11 calls. And the CSO is probably customer service
12 order, and it implies to me that there was some
13 other work that was done like installation, like a
14 fiber installation or additional cabling or
15 something and there was a separate work order
16 associated with that.

17 Q. And you would attach that work order to
18 the invoice?

19 A. Right. Something that they asked us to
20 do for them and there was a charge for that.

21 Q. The next two lines have a bunch of
22 numbers, what does that indicate to you?

23 A. Okay. This seems to be the --
24 explaining the charges for -- the charges that we
25 show here as 185. It explains the additional

1 charges that you see here. Like reprogramming
2 extension 9324 per quote. The second line says it
3 has an STS number which is probably the customer
4 number, and then it says the action that was
5 charged which is reprogram extension 8324; that
6 looks like a telephone extension and we did some
7 reprogramming to the telephone and following --
8 this was per quotation given to the customer, and
9 that's the number of quotation that was given to
10 the customer.

11 Q. Now, Tracy Dennis you said?

12 A. Tracy Dennis.

13 Q. -- Tracy Dennis prepared at least this
14 invoice as well. How would Ms. Dennis know what to
15 attach to the invoice? Was there a policy that --

16 A. Yeah, there's rules for the game that
17 they follow for that.

18 Q. In other words, if any work is done
19 during the month --

20 A. It would show up here at least this
21 much. I don't know if we're including the whole
22 ball of paperwork, but at a minimum we're telling
23 them what we're charging.

24 Q. So you want the customer to see whatever
25 extra work was done --

1 A. Right.

2 Q. -- in addition to just the regular
3 rental involvement?

4 A. Right.

5 Q. And that would be part of the invoice
6 package?

7 A. Right.

8 Q. Okay. So tell me what the standard
9 invoice package that would go to the customer would
10 include. It would include the first page, the
11 Miami-Dade Aviation SATS Standardized Billing Form;
12 correct?

13 A. Right.

14 Q. It would include the second page, the
15 Nextira breakdown of the equipment rental that we
16 looked at?

17 A. That's right.

18 Q. It would include the long distance
19 detail that we looked at?

20 A. That's right.

21 Q. And it would include any work orders
22 or --

23 A. Well, a description of the work --

24 Q. Okay.

25 A. -- not necessarily the complete work

1 order, but at least what you saw down here, the
2 descriptions.

3 Q. So the customer would know they were
4 getting billed for a particular service --

5 A. Right.

6 Q. -- as opposed to just seeing some extra
7 charge on the invoice?

8 A. That's right.

9 Q. And those went out monthly?

10 A. That's right.

11 Q. To each one of the 50 or whatever number
12 of customers?

13 A. That's right.

14 Q. Bills are due within what, 30 days of
15 receipt? Is there a standard that the County
16 operates under?

17 A. Yeah, I would imagine, probably.

18 Q. You're not involved in that?

19 A. I'm sure somewhere in there.

20 Q. Did Nextira personnel actually handle
21 the billing function for the County?

22 A. They prepared a billing package and
23 then -- right.

24 Q. Does some County employee or is some
25 County employee required to approve the billing

1 package before it goes out?

2 A. We check out the bills to make sure that
3 they're correct.

4 Q. Who does?

5 A. The folks that -- the customer service
6 representatives.

7 Q. Guelsys?

8 A. Guelsys Coplan, Lorraine Jones, Barbara
9 Altamirano, those.

10 Q. They check out every month?

11 A. They check out the bills.

12 Q. Before they go out?

13 A. Right.

14 Q. And the money goes to the County
15 downtown someplace?

16 A. The money is written to the Miami-Dade
17 Aviation Department. It goes to the finance
18 department at the airport.

19 (Discussion off the record)

20 (Plaintiff's Exhibit 18 was marked for
21 identification.)

22 BY MR. BLOOMBERG:

23 Q. Let me show you what's been marked as
24 Exhibit 18 for the deposition which also appears
25 something having to do with calls but it looks like

1 a little different form. Can you tell me what that
2 is? And it appears the Bates number is 017567.

3 A. This seems to be a record of long
4 distance calls.

5 Q. Yes. It's a little different form. Can
6 you explain the cover sheet to me, why it's
7 different or what it is? The front page, it looks
8 different than the prior pages.

9 A. I'm not sure if this would be the front
10 page of the bill itself. It might be part of an
11 attachment that there was something in front that
12 this was an attachment to it.

13 Q. You don't really know what it is?

14 A. It's a detail of long distance calls.

15 Q. Right. I'm just interested in what this
16 first page is, Page 017567. I recognize the rest
17 of it is detailed long distance calls.

18 A. It seems to me that it's just a report
19 that is produced out of SMDR system and PBX, and
20 this might be the first sheet that is like the
21 programmers use and they were just inadvertently
22 put in this set of documents. This is basically
23 not for the customer to see. It's like an internal
24 sheet that the people approve the document for the
25 PBX.

1 Q. It just got stuck there?

2 A. It just got stuck.

3 (Plaintiff's Exhibit 19 was marked for
4 identification.)

5 BY MR. BLOOMBERG:

6 Q. Let me show you what's been marked as
7 Exhibit 19. It bears Bates Nos. 18310, 11, and 12
8 it's a document LT-1 Configuration.

9 Can you tell me are you familiar with
10 that document?

11 A. No. I should be able to figure it out.

12 Okay. This seems to be a bill from
13 WorldComm, which is MCI, for the provisioning of
14 some high capacity -- it's a T1, like a high
15 capacity circuit, you know, contributing two points
16 to T1, actually. It's hard to say, but it's
17 definitely provided by WorldComm. It terminates in
18 one of the switches in Nortel Option 11 equipment
19 termination. So it's connecting that switch to
20 something. It would be -- it could be a number of
21 things.

22 It could be a connection between the
23 main switch at the terminal and a smaller -- a
24 smaller switch maybe at some of the other airports
25 and making the connection via T1 service. Or it

1 could be a -- a long distance -- it's a high
2 capacity equivalent to 24 channels of a regular
3 phone line. It's embedded into one digital line.
4 That terminates in Nortel Option 11 which is a
5 smaller digital switch.

6 Q. Is this an invoice of something that was
7 sent to the County or the customer? Without
8 telling me the customer name, because I know you
9 won't, but was this an invoice that was sent to a
10 customer of the County or to the County?

11 A. This looks like a bill that was sent to
12 the County from Nextira. Because these services
13 were procured originally by Nextira and some of
14 these services they pay them and then they bill us
15 for them. And this seems to be one of those.

16 Q. So this does not appear to be something
17 that was sent to a STS customer?

18 A. This is correct. This is something that
19 went to the Aviation Department from Nextira and we
20 paid it.

21 Q. Was it something that was passed on to a
22 customer, or was it something just for your use?

23 A. No, this seems to be something like for
24 our use.

25 (Plaintiff's Exhibit 20 was marked for

1 identification.)

2 BY MR. BLOOMBERG:

3 Q. Let me show you what's been marked
4 Exhibit 20 for purposes of the deposition.

5 A. Exhibit 20.

6 Q. Exhibit 20. Any idea what it is?

7 A. No, not yet.

8 MR. BLOOMBERG: David, if you know what
9 this is, I am going to be very impressed.

10 A. This seems to be -- again, this is a
11 report that should not have been going anywhere.
12 It's probably something that's produced in the
13 telephone room by the technicians that are working
14 on the switch. And as a part of the regular
15 maintenance they produce these things and somehow
16 it ended up with the rest of the papers.

17 Q. But what is it? Do you have any idea
18 what it is? What does it show?

19 A. No, it's a printout but something
20 internal to, I imagine, some of the equipment.
21 It's got no bearing to anybody other than anybody
22 who has been trained and working with this system
23 to do something with these things. This has
24 nothing to do with money or billing or anything
25 else.

1 Q. Okay.

2 A. Never seen that before.

3 (Plaintiff's Exhibit 21 was marked for
4 identification.)

5 BY MR. BLOOMBERG:

6 Q. I'm going to show you what's been
7 marked -- now you're trying to figure out what it
8 is.

9 A. It's coming out of the PBX. I recognize
10 some of the codes.

11 Q. Let me show you what's been marked as
12 21, ask you if you can identify that.

13 A. Okay.

14 Q. What is it?

15 A. It seems to be a customer list with
16 their customer number and their contact.

17 Q. Do you know when that was prepared?

18 A. No.

19 Q. Do you know if it was prepared before or
20 after the Nextira Agreement?

21 A. No, I don't.

22 Q. And I will tell you that at least from
23 my reading -- my calculation is there's 56 names.
24 Does that sound like the right number of customers?

25 A. Yes.

1 Q. Okay. If a customer wanted service,
2 wanted something done, how do they go about
3 arranging that under the -- again, since it's a
4 Nextira Agreement? And I'm talking only about
5 since the Nextira Agreement now.

6 A. Normally they contact Holly Klaity, who
7 is the marketing representative from NextiraOne,
8 and she will be the one that makes the contact with
9 the customer and goes see what they need, takes the
10 order, gives them a proposal, and then the customer
11 would sign -- either sign the proposal agreeing to
12 it or enter into the contract for the services.

13 Q. At what point would a County
14 representative get involved? And I'm the customer,
15 I call Holly and I say I want to do something.

16 A. Okay. You will call Holly and say I
17 need to see you. I need some things. She will go
18 over there, determine what you need, write you a
19 proposal. Some work needs to be done to execute
20 the proposal. She will say I will charge you this
21 much per month. Then she prepares the proposal,
22 the customer signs it and then it comes to us for
23 approval because either some expenditures need to
24 be made, either in time or materials, to provide
25 the service.

1 So we, the aviation department, needs to
2 approve that. So that's the first time we get
3 involved to approve what she's going to do for the
4 customer, and then it goes up to my boss' level or
5 higher if it's a lot of money. And if it's
6 approved, then the order goes back to Nextira and
7 they go and execute what they're supposed to do.

8 Q. All right. So the County would not get
9 involved until after the proposal had been
10 basically presented by Nextira and then they would
11 give the proposal to you?

12 A. That's correct.

13 Q. Okay.

14 A. No, I'm sorry. Let me correct that.

15 If Nextira is going to present a
16 proposal that involves we're going to spend some
17 money to provide the service which usually is the
18 case, we need to approve that before it goes out.

19 MR. BLOOMBERG: Let's mark this as a
20 composite, also.

21 (Plaintiff's Exhibit 22 was marked for
22 identification.)

23 BY MR. BLOOMBERG:

24 Q. Let me show you what's been marked as
25 Composite Exhibit No. 22 for the deposition which

1 are four documents each titled Telecommunications
2 Request for Communications Service. They're dated
3 respectively 2/11/02, 7/23/02, 9/13/02 and
4 10/03/02. It's five documents. The last one is
5 10/18/02. Can you tell me what those are? Have
6 you seen those before?

7 A. Not these particular ones.

8 Q. Tell me what the form is.

9 A. This is a work order request for
10 service. It has the description of what needs to
11 be done for some customer.

12 Q. All right.

13 A. And if -- it has the approval of -- this
14 is Maurice Jenkins' signature approving.

15 Q. Which one is Maurice down here, 2/12/02?

16 A. Normally this will have my signature
17 here. I don't know. Maybe I wasn't in the office
18 on that day. But normally I would approve this
19 before he does, and then the attached is just
20 explanations of what it is, explaining what work
21 needs to be done.

22 Q. At what point in the process -- you
23 know, we talked about customer calls Holly, Holly
24 makes a proposal and so forth. At what point of
25 the process would this form come to the County, the

1 telecommunications request for --

2 A. Holly makes contact with the customer
3 and defines the work that needs to be done. Then
4 they -- they can really -- they really cannot do
5 anything unless they have one of these signed by
6 somebody.

7 Q. By somebody?

8 A. So in order for them to spend time and
9 money --

10 Q. And get paid for it?

11 A. -- performing any services, they need to
12 be approved by the County.

13 Q. Okay.

14 A. And the approval is in the form of
15 signing this work order.

16 Q. All right. Now, on the form you have
17 telephone. So under the -- I guess about a third
18 of the way down it says telephones. So I guess the
19 customer would be picking what customer -- not this
20 particular customer but just using the regular
21 form --

22 A. Let me tell you something. This form
23 not only exist here but exist in the County when
24 the -- in the department I used to work -- doing
25 work for the County. Normally these forms were

1 designed years ago by somebody, and they have all
2 these things in the front which are hardly ever
3 used by anything.

4 Q. Okay.

5 A. They're just there. But in reality you
6 describe the description of the work is usually an
7 attachment that has more detail --

8 Q. Okay.

9 A. -- than just using what's in this form
10 here.

11 Q. And what is the section of the form that
12 says BellSouth service, what does that mean?

13 A. That means -- that means that if it's a
14 BellSouth service involved, we're getting the
15 connection through World -- from BellSouth. It
16 could be a line from BellSouth for whatever reason
17 attached to that service.

18 Q. You mean for the long distance calls?

19 A. No, local calls.

20 Q. This is an e-mail from Maria Perez to,
21 what is it, Pedro De Camilla?

22 A. Pedro De Camillo is the manager of
23 NextiraOne.

24 Q. Okay. I am forwarding this information
25 to Guelsys so she can give you an IPON. What is

1 IPON?

2 A. IPON is the -- what's used for a work
3 form.

4 Q. This is IPON?

5 A. Don't ask me to spell that. Nobody
6 knows what that means, but that's what it's called.

7 Q. Okay. So this is describing the work
8 that needs to be done is in the e-mail, and then
9 the form is basically just having somebody approve
10 it?

11 A. This form, the main parts of this form
12 is what it says here, the date and so forth, and
13 this approval here. So that's the meat of this
14 form here.

15 Q. Who fills out the form? I know Maurice
16 Jenkins signed it but --

17 A. The form is normally filled by one of
18 the customer service reps.

19 Q. At the County?

20 A. At the County.

21 Q. So the County gets information from
22 NextiraOne saying, generally, this customer wants
23 A, B and C done?

24 A. I need an IPON to do this kind of work.

25 Q. And then one of the County service

1 customer people fills out the form requesting
2 telecommunications service which would go to you or
3 Maurice who would then approve it, or do you both
4 have to approve it?

5 A. Maurice has to approve it. Maurice has
6 to approve any expenditure, and if it's above a
7 certain amount, his boss has to do that.

8 Q. Are all five of these forms signed by
9 Maurice?

10 A. Well, I don't know who this thing is.
11 It's a very fancy --

12 Q. Very fancy -- the third one?

13 A. I don't recognize this signature.
14 Normally Maurice would sign it or Bobbie Phillips.

15 Q. Bobbie Phillips is Maurice's boss?

16 A. Right.

17 Q. Are you familiar with something used at
18 the airport called a customer service order?

19 A. Yes, this (Indicating).

20 Q. All right.

21 A. Otherwise called IPON.

22 (Plaintiff's Exhibit 23 was marked for
23 identification.)

24 BY MR. BLOOMBERG:

25 Q. Okay. Let's look at Composite 23 which

1 is a series of documents entitled customer service
2 orders. Are you familiar with those documents?
3 Hold on. Give it back to me. There's something
4 stuck in there -- just pull out the last -- that
5 will be the next one, so --

6 A. Okay.

7 Q. Are you familiar with those documents?

8 A. I am now.

9 Q. What are they?

10 A. This is a document that is more at the
11 working level that the -- let's say when a
12 technician goes to perform a job --

13 Q. Right.

14 A. -- they get this sheet and the customer
15 signs and the technician signs. Basically it's a
16 corroboration that the work has been done and the
17 customer has accepted the charge of the work that
18 was done.

19 Q. All right. In terms of time, explain to
20 me where the customer service order fits in with
21 the telecommunications request for
22 telecommunications services, Exhibit 22?

23 A. All right. That is the authorization --

24 Q. 22?

25 A. 22 is the authorization to do some work.

1 When the technician goes out to do the work, this
2 form comes into place, this customer service order,
3 and then in this form here the technician would
4 have the -- when he's finished, the customer would
5 sign this to say, you know, I'm okay with the work,
6 and the customer would corroborate on the dime that
7 he spend on the order, installing and so forth, so
8 we can charge the customer for the time.

9 Q. So in sequence what would happen is once
10 the telecommunications request for communications
11 service was signed and approved, some other form --
12 the technician would be told you go out and do this
13 work?

14 A. That's right.

15 Q. And the technician would bring with him
16 or her the customer service order which the
17 customer would sign after the technician completed
18 the work?

19 A. That's correct. And it's a
20 corroboration, again, of the time the technician
21 spent and he signs to say I worked one hour or two
22 hours or whatever.

23 Q. Right. It reflects the technician's
24 number, when he or she started, when he or she
25 finished and what was done?

1 A. Right.

2 Q. So in theory, should there be a
3 completed telecommunications request for
4 communications service that would match up with
5 each customer service order in an ideal world?

6 A. Yes, in theory, yes.

7 Q. In theory, if the system was working
8 properly, a customer service order would not be
9 generated until after a telecommunications request
10 for a communications service was signed and
11 approved?

12 MR. HOPE: Objection to form.

13 A. That's correct.

14 Q. Were all of the technicians Nextira
15 employees?

16 A. Yes.

17 Q. All right. Is that why all of the --

18 A. Wait. They -- they can use some
19 subcontractors in some cases which they do for
20 installation of cable mostly, and that's in the
21 contract and that's perfectly okay to do that and
22 they get the billing and we check that and so
23 forth.

24 Q. Would that be why the customer service
25 orders are all either Williams or Nextira forms

1 because it's their employees or subcontractors?

2 A. That's correct.

3 Q. And the customer service order forms,
4 would it be possible that they could relate to
5 installation of equipment?

6 A. Yes.

7 Q. Repairs of equipment?

8 A. Yes.

9 Q. Simple things like I'm not getting any
10 dial tone, anything like that?

11 A. Any malfunction or any new installation
12 or equipment of service.

13 Q. And that's because the County is
14 responsible for maintaining the service?

15 A. That's correct. In some cases it's
16 billable to the customer and in some cases it's
17 not. We have to absorb if it's after hours.

18 (Plaintiff's Exhibit 24 was marked for
19 identification.)

20 BY MR. BLOOMBERG:

21 Q. Let me show you what's been marked as
22 Exhibit 24 for the purposes of the deposition and
23 ask if you recognize that document, the document
24 entitled Nextira STS Work Orders for DCAD, Orders
25 through 2002?

1 A. It seems to be they're still work
2 orders.

3 Q. Who was that prepared by, do you know?

4 A. It's prepared by Nextira.

5 Q. And submitted to the County?

6 A. Yes.

7 Q. When you say work orders, Nextira work
8 orders, how does this document, Exhibit 24, relate
9 to the documents that are a part of Exhibit 23, the
10 customer service orders?

11 A. The work order could be a number of
12 things. That's a very generic name. As it refers
13 in this case, the work order is IPON that you see
14 here. It's also called a work order and this
15 obviously is the IPON number and the status and the
16 customer and the description. And as I explained
17 before, that work order that you have in there, the
18 technician, Exhibit 23 is part of the process of
19 the installation that happens after the IPON has
20 been generated and approved.

21 Q. Is Exhibit 24 like a summary report?

22 A. That's what it is.

23 Q. So again, in an ideal world I should be
24 able to go through or you should be able to go
25 through all of the records of the County and find

1 IPON 02-001 STS which would tell you what work was
2 supposed to be done on that particular work order?

3 A. Yes.

4 Q. And in this case it says the status is
5 completed, and I realize certain things are blacked
6 out, redacted, but in the accounting records there
7 should be a backup to support that this particular
8 work was done?

9 A. That's correct.

10 Q. And if I go through all my documents, it
11 probably is in there also or hopefully.

12 Did the County require or DCAD require
13 Nextira to submit summary reports on a regular
14 basis?

15 A. The agreement that is signed that we
16 went through before has a list of reports, weekly,
17 monthly, quarterly and yearly that Nextira is
18 supposed to provide the County.

19 Q. And those reports are generally done?

20 A. Yes, they mostly come to me or the
21 people that work for me.

22 Q. So you would be responsible for
23 reviewing those reports?

24 A. Yes.

25 Q. Or at least the people that worked for

1 you that reported to you?

2 A. Yes.

3 (Plaintiff's Exhibit 25 was marked for
4 identification.)

5 BY MR. BLOOMBERG:

6 Q. Let me show you what's been marked as
7 Composite Exhibit 25. I think we looked at one of
8 those similar forms before. I'll ask you to take a
9 look at --

10 A. Okay.

11 Q. Okay. Let's look at the first stapled
12 group. You can take off the clip.

13 The first four pages are Bates
14 Nos. 17222 through 225, all appear to relate to
15 something called TSR02060012.

16 A. Yes.

17 Q. Am I correct there?

18 A. Yes.

19 Q. And do all four of those pages relate to
20 the same work?

21 A. It could be. It looks like it is
22 because the TRS number is the same.

23 Q. Would that be the way to try to identify
24 it by looking at a TRS number or an IPON number and
25 say these work order process numbers, TSR marks

1 relate to the same project?

2 A. Yes.

3 Q. Now, can you tell me what work was
4 requested here under this TSR?

5 A. It seems like this -- there's work to be
6 required on four telephone lines used for modems,
7 connections, and they need duplicate line
8 appearances.

9 Q. All right. So the customer wants some
10 telephone lines put in?

11 A. Yeah, they want four lines and then they
12 want some other changes.

13 Q. Towards the bottom of the first page it
14 says date received by work flow. Who's work flow?
15 What is work flow?

16 A. This is just an internal word that
17 Nextira uses. Probably when they got the go ahead
18 to proceed with the work.

19 Q. Okay. And in point of time -- you said
20 you got the other documents --

21 A. This is a Nextira form, by the way.

22 Q. Okay, a Nextira form, it goes to the
23 County and the County obviously has a copy of it
24 because you produced it for me.

25 A. Once we approved the initial IPON, this

1 is their form to -- they keep track of the work and
2 it changes what's going on. I mean --

3 Q. Who is they, Nextira?

4 A. Right.

5 Q. But these forms were all produced to me
6 by the County. So the County obviously had
7 possession of these forms at some point?

8 A. They're produced by Nextira.

9 Q. No, no. I got them from the County.
10 I'm just trying to find out how -- I made a request
11 for production to the lawyer for the County. David
12 produced 19,000 pieces of paper. These were
13 amongst the 19,000 pieces of paper. I'm assuming
14 that the County had possession of these forms at
15 some point because I don't think they would have
16 produced them if they didn't have them.

17 A. They were produced by Nextira --

18 Q. Right.

19 A. -- and then they're given to us as the
20 backup -- when the order comes to us for approval
21 or for billing, so forth. This is the backup
22 information they give us to make sure that
23 everything went okay. They do stuff on our behalf.
24 They produce it or they give it to us.

25 Q. Right.

1 In terms of the process itself, point of
2 time with respect to the document Exhibit 22,
3 Telecommunications Request For Communications
4 Service, when would the County receive Work Order
5 Processor - TSR Remarks, would you receive them
6 before the Request For Telecommunications Services
7 or after or both?

8 A. Probably in both cases. This is after
9 the fact when they need to get paid for something.
10 Sometimes the approval for the expenditures we
11 don't really know exactly how much is it going to
12 be until after they do it.

13 We give them an IPON not to proceed or
14 something like that until approval. So when they
15 have the final numbers, the actual details come in
16 this form in a package and this is the backup
17 information and then we -- it is approved for
18 payment.

19 Q. So in other words, you approve that the
20 County has approved the work and a Nextira
21 technician or a subcontractor goes out and does the
22 work --

23 A. The initial IPON, even though that the
24 ones that we sold before Santo Maurice (phonetic),
25 that their was no dollar amount in any of those.

1 So basically it was authorization to do some amount
2 of work that is okay. And after the work is done,
3 this is the more detailed information, and it would
4 have documents in front with dollar amounts and
5 things like that.

6 Q. So in other words, what I presented to
7 you here as Exhibit 24 is not necessarily a
8 complete package?

9 A. No, it's not.

10 Q. Because it would be something that would
11 show the time involved, the materials involved --

12 A. That's right.

13 Q. -- and there's a pass --

14 A. And then a dollar amount that we have to
15 approve so that Nextira will get paid by whatever
16 work they did.

17 Q. And then with respect to the bill, if
18 this was something that you could bill the customer
19 for, that would appear on the next invoice or some
20 invoice to the customer?

21 A. That's right. Nextira would generate
22 the bill, it would come to us and we would get to
23 the customer and the customer would send the check
24 to the County. But this is to pay for the expenses
25 that Nextira incurred on our behalf to provide the

1 service.

2 Q. Right. And it might or might not be
3 billed to the customer --

4 A. That's right.

5 Q. -- depending on what the service was?

6 A. If it's a repair and we were supposed
7 to, then there would be nobody.

8 Q. Let me go down to the next document
9 which starts with the 05463 which looks like --
10 you're okay. It's right. It's the next document
11 which appears to be an e-mail -- the top of the
12 e-mail it says from Guelsys to Holly, which
13 obviously is not the first e-mail.

14 So as I understand it, somebody named
15 Jaime Marriaga at the bottom of the page has
16 requested Holly to issue an order to install two
17 telephone lines?

18 A. Yes. There's another person working for
19 Avianca.

20 Q. You're not supposed to say that, but
21 Jaime being the customer, the ultimate customer.

22 David doesn't want me to know who the
23 customers are but that's okay.

24 A. I didn't know.

25 Q. So Jaime requests from Holly Please

1 issue an order to install two telephone lines;
2 correct? E-2626?

3 A. Yes.

4 Q. The way the process goes, Jaime then
5 sends an e-mail to Guelsys to ask for an IPON; is
6 that correct?

7 A. Jaime sends a request to Holly, which is
8 the Nextira person, to install two telephone lines.

9 Q. Correct.

10 Holly then has to go to the County to
11 say Jaime here or whatever company Jamie works for
12 wants to install two telephone lines?

13 A. And Guelsys needs to issue an IPON to
14 authorize the work.

15 Q. The IPON, whatever those initials stands
16 for, is the authorization to do the work?

17 A. Right. It needs to be approved by
18 Maurice, and that's the one we send --

19 Q. And the next page is a Work Order
20 Processor form. Now, is that being sent by Holly
21 to Guelsys saying pursuant to Jaime's e-mail,
22 please issue an order, or who is she sending that
23 to? Who is Holly sending 005464 to?

24 A. Talking about this --

25 Q. The second document, yes.

1 A. This is, again, the same form -- that is
2 an internal -- is a Nextira-generated document in
3 which they now put everything in their formal way
4 what's in this e-mail here --

5 Q. Right.

6 A. -- to start actually identifying the
7 work that needs to be done and to start --

8 Q. I understand that, but the document
9 005464, would that document be sent to Guelsys or
10 somebody who works for Guelsys? And the only
11 reason I ask that is please issue an order to
12 install.

13 A. That is a quote from the e-mail.

14 Q. Right.

15 A. Again, it's just backup information for
16 Nextira to justify later on that they had proof
17 that we told them to do so. So they're quoting the
18 e-mail that's in the front here.

19 Q. But where is the proof here that -- and
20 maybe I'm confused. Where is there proof here that
21 the County approved this work?

22 A. It's not here. It's supposed to be an
23 IPON like this that would be given to them to start
24 the process. That is missing in this pile.

25 Q. In this package, okay.

1 A. She's requesting that please generate an
2 IPON. By that she means give me one of these
3 signed and approved by --

4 Q. Maurice.

5 A. -- so that I can do this.

6 Q. As I understand it, Nextira was not
7 supposed to do any work without County approval?

8 A. That is correct.

9 Q. And if they did, they were running the
10 risk of not getting paid for it?

11 A. That's correct.

12 Q. If you want to work, have a good time
13 but don't come to me for any money?

14 A. Well, just like any County employee,
15 they can't spend County money without getting
16 approval to do so.

17 Q. Are you familiar with the acronym
18 P-O-T-S, POTS?

19 A. Yes.

20 Q. What does that mean?

21 A. Plain Ordinary Telephone Service.

22 Q. What does that mean?

23 A. The phone, the black phone you used to
24 have at your house -- not necessarily black but --
25 plain old phone service.

1 MR. BLOOMBERG: Plain old telephone
2 service, okay.

3 We'll take five minutes.

4 (A break was taken.)

5 (Ms. Lee is not present.)

6 (Plaintiff's Exhibit 26 was marked for
7 identification.)

8 BY MR. BLOOMBERG:

9 Q. All right. Let me show you what's been
10 marked as Composite Exhibit 26 which are documents
11 generally marked proposal transmittal. I'll ask
12 you to take a look at those and tell me if you
13 recognize that.

14 A. Okay.

15 Q. Do you recognize these documents?

16 A. I've never seen the transmittal form but
17 it seems like a -- normal. I've seen the other
18 ones, yes.

19 Q. All right. Tell me what you know about
20 any of the documents in any of these faxes.

21 A. Yeah, the first one just seems to be a
22 transmittal to tell you what's contained in the
23 package. It's a proposal that Nextira has made to
24 a customer for some scope of work.

25 Q. Is there anybody mentioned here who is a

1 County person?

2 A. This is addressed to Maria Perez, who is
3 a supervisor for the County, and Lorraine is a
4 County person --

5 Q. Okay.

6 A. -- from Ray Delerme, which is a Nextira
7 person, and the signatures on here are all Nextira
8 people.

9 Q. Okay. So Nextira is submitting
10 something to the County saying here is what's been
11 proposed?

12 A. Right. And this is the -- this is
13 the -- to do the work, this is when it comes back
14 to us to approve the actual exact amount of dollars
15 that was --

16 Q. So this would be after --

17 A. After all the other things that we have
18 approved before. After the initial IPON that is
19 approved, then the work order that the technician
20 puts in, the actual hours and all that and then
21 eventually it gets converted to actual dollar
22 amounts of what they've done, and this is what that
23 sheet is. They approved it and then these two
24 lines are not approved here which would be -- this
25 would be County approval.

1 Q. For the signature?

2 A. Right.

3 Q. So the four signatures that are on the
4 second page --

5 A. Those are Nextira signed -- the four
6 signatures are Nextira. The ones that are blank,
7 those would be County approvals.

8 Q. So these four signatures from Nextira
9 are on the second page, 18250, seem to indicate
10 that the work was done, and here's the cost?

11 A. Right.

12 Q. What's the next page, 18251?

13 A. This is basically a more detailed
14 description of the work that needs to be done and
15 the proposal and schedule.

16 Q. In point of time, when would the County
17 receive that document?

18 A. This usually comes together with this --
19 this. This is a justification for this
20 expenditure.

21 Q. Justification for what appears on Page 2
22 of the exhibit?

23 A. Right.

24 Q. Next, what's internal financial summary,
25 what is that, if you know?

1 A. It's a Nextira form, but I don't -- but
2 I don't recognize the engineer. It would be a form
3 submitted to Nextira by one of their subs.

4 Q. But this form generally goes to the
5 County?

6 A. It comes in the package. It doesn't
7 come that often. I've never seen it that -- it
8 looks like a subcontractor for Nextira that
9 provided -- that did work for them.

10 Q. Would that be the same, we have one
11 that's called internal financial detail, you go
12 down further internal quote notes, internal
13 material detail, internal labor detail --

14 A. Yes, all these things are.

15 Q. Go to the page that's got a Bates number
16 18260. 8818620, are you familiar with that form?

17 A. Yes.

18 Q. What is that?

19 A. Again, this is -- this is a summary form
20 of the expenditures that they are sending to the
21 County for approval.

22 Q. And the number matches?

23 A. Normally sign this form right here and
24 approve this -- the expenditures.

25 Q. And the number matches up with the

1 number on Page 2 or at least it should, \$2,362.50?

2 A. Right.

3 Q. Now, this says service approved by MDAD,
4 order of completion signed by MDAD. Is that on
5 this form or on some other form?

6 A. Services approved by MDAD, that would be
7 the initial approval that we get on approval.

8 Q. Order of completion signed by MDAD,
9 where would that be signed?

10 A. I don't know why that's this. Usually
11 we approve -- we approve the expenditures. It's
12 the same thing that the order is completed and it's
13 waiting to be paid. To me it's the same thing.

14 Q. And then we have one of these work order
15 process forms, the next page; is that correct,
16 which we already talked about?

17 A. Yeah, this is the same one.

18 Q. Right.

19 The next page is signed by -- is that
20 Maurice?

21 A. That's Maurice.

22 Q. All right. Who else was supposed to
23 sign besides Maurice?

24 A. It's Maurice up to a certain level of
25 approval and then Bobbie would.

1 Q. So Bobbie didn't have to sign this one?

2 A. No, for 2,000. Maurice can go up to
3 5,000.

4 Q. The customer service orders which we've
5 talked about?

6 A. That's the more detail the technician
7 fill out. All of this is backup information.

8 Q. So this appears to be pretty much a
9 complete package?

10 A. Yes.

11 Q. And that would be the package that would
12 ultimately result in Nextira getting paid?

13 A. Correct.

14 Q. And then the next decision would be
15 whether or not this was something that could be
16 billed to the customer?

17 A. Correct.

18 Q. In this case we're upgrading something,
19 so maybe it could be billed as opposed to
20 preparing?

21 A. Yeah, if it's billable, Nextira will
22 generate the billing.

23 Q. On the customer's invoice for the next
24 month?

25 A. Right.

1 Q. The second part of the exhibit, without
2 going through each page, is there anything
3 different about that? I realize that there aren't
4 any documents, but is there anything in here that's
5 different than what we talked about? It doesn't
6 appear to be.

7 A. This is, again, just detail of the work
8 that is involved in the order.

9 (Plaintiff's Exhibit 27 was marked for
10 identification.)

11 BY MR. BLOOMBERG:

12 Q. Let me show you what's been marked as
13 Exhibit 27, composite also, for purposes of
14 deposition which appears to be a series of forms
15 entitled scope of work --

16 A. This is the same form that was included
17 in the previous package. It goes usually behind
18 the one that has the dollar amounts to be paid, and
19 it's just an explanation of what is asked to be
20 approved for payment.

21 Q. This is a little bit more detail?

22 A. Again, this usually comes with -- with
23 something with dollars in the front that we're
24 requested to approve, and this would be an
25 explanation of what we're to spend for.

1 Q. When it says environment on the first
2 page, 5155, MDAD provides both voice and data
3 services for multiple locations, is Miami-Dade
4 Aviation Department, is that MDAD, the initials,
5 provides both voice and data service?

6 A. Um-hum.

7 Q. The next one says MDAD provides voice
8 connectivity for several USDA locations. Why is
9 the current environment different? I don't
10 understand.

11 A. Because this part that was blacked out
12 has the name of the customer, and the one that is
13 for this particular customer was blacked out. The
14 other one was for U.S. Department of Agriculture.

15 Q. And then on the fourth page of exhibit
16 it says MIA currently provides both voice and data
17 services at Miami International Airport.

18 A. What was the question?

19 Q. The fourth page, 8370 --

20 A. The current environment is just telling
21 you who the customer is and where they're located.

22 Q. Well, in one place it says MDAD and the
23 other place it says MIA?

24 A. Both should be MDAD.

25 Q. They're saying that the airport provides

1 certain things?

2 A. Right.

3 Q. The last group in the exhibit looks to
4 be the complete package we talked about before or
5 much more similar to the complete package; right?

6 A. You're talking about --

7 Q. From 18601, starting 18601. It's the
8 group that's stapled, probably easier to find it.
9 That's much more similar; right?

10 A. Right.

11 (Discussion off the record)

12 BY MR. BLOOMBERG:

13 Q. Who's Paulette Gilbert? Does she work
14 for MIA, do you know?

15 A. It doesn't ring a bell.

16 Q. Miami-Dade Aviation Department
17 Properties Division?

18 A. Well, that's what it is then.

19 Q. But the name doesn't ring a bell?

20 A. The name doesn't ring a bell. That
21 doesn't mean --

22 Q. I understand. There's a lot of people
23 there. This is not a --

24 A. I've only been there two years.

25 Q. Are you familiar with the agreement that

1 was approved, Airport Rental Agreement between the
2 County and its STS customers?

3 A. Yes.

4 (Plaintiff's Exhibit 28 was marked for
5 identification.)

6 BY MR. BLOOMBERG:

7 Q. Let me show you what's been marked as
8 Exhibit 28 for purposes of the deposition which
9 appears to be another copy of the memorandum from
10 Manager Shiver to the board recommending approval
11 of an agreement.

12 Were you involved in either the drafting
13 of that memorandum or in providing information
14 relating to that memorandum?

15 A. I'm sorry. Could you repeat.

16 Q. Yes.

17 Were you involved -- let me break it
18 down -- in the preparation of that memorandum?

19 A. I probably provided some information to
20 the person that put this thing together in terms of
21 technical content or --

22 Q. The manager was recommending a specific
23 form of agreement to be used?

24 A. I believe this was the approval of the
25 contract form --

1 Q. Right.

2 A. -- that would be used by the aviation
3 department or the County to enter into an agreement
4 with the customers for services.

5 Q. And there was some breakdown as to the
6 dollars received by the County or to be received by
7 the County as \$2,670,000?

8 A. Yes, this number is what --

9 Q. The year before?

10 A. Was received at the time that we entered
11 into an agreement with Nextira.

12 Q. By the way, how much did the County
13 receive for the first year of the operation of the
14 agreement, do you remember?

15 A. We're about -- the level right now is
16 around -- it's a little less than 2 million,
17 1.9 million.

18 Q. So revenue is down a little bit?

19 A. Yes.

20 Q. That's because of the economy --

21 A. It depends on -- yeah, 1.9 something,
22 somewhat less than 2 million.

23 (Plaintiff's Exhibit 29 was marked for
24 identification.)

25

1 BY MR. BLOOMBERG:

2 Q. Let me show you 29, Exhibit 29 which
3 appears to be the resolution and the Airport Rental
4 Agreement itself and ask you if you're familiar
5 with both of those documents.

6 A. Okay.

7 Q. And am I correct that the first document
8 is the resolution --

9 A. Yes.

10 Q. -- and the second document is the
11 Airport Rental Agreement?

12 A. Yes.

13 Q. Has the County or the Aviation
14 Department signed Airport Rental Agreements with
15 all of its customers?

16 A. With the new customers --

17 Q. New customers.

18 A. -- since the resolution was approved.

19 Q. Okay.

20 A. For the time that the -- we never went
21 back and actually executed this agreement with the
22 existing customers. Previously they had agreements
23 with Nextira, so we -- that continue on and only --
24 only with -- only new customers that came into
25 effect after this contract was approved where

1 basically there was basically an agreement executed
2 with those customers by the County.

3 Q. I have never seen --

4 A. I think there's been about two or three.

5 Q. New customers?

6 A. Something like that.

7 Q. I have never seen the pre-February 2nd,
8 2003 agreement. How does the current Airport
9 Rental Agreement differ from the agreement that the
10 customers signed with Nextira?

11 A. This thing was modified by counsel and
12 by other folks involved. I would assume it's
13 somewhat similar.

14 Q. You don't really know? You can't answer
15 the question?

16 A. Not absolutely.

17 Q. Not without comparing it line by line?

18 A. Right.

19 Q. So there are only a couple, two or three
20 customers that have signed this particular
21 agreement?

22 A. That's right.

23 Q. And I'm not holding you to the -- I mean
24 it could be four. I won't quote you a liar if it's
25 four.

1 MR. BLOOMBERG: David, give me a couple
2 minutes.

3 (A break was taken.)

4 MR. BLOOMBERG: All right. Mr. Garcia,
5 you have the right when this is transcribed,
6 which it will be, to read it --

7 MR. HOPE: You want to read it.

8 MR. BLOOMBERG: He wants to read.

9 I'll order it.

10 (The deposition was concluded at
11 2:51 p.m.)

12 (Reading and signing not waived.)

13

14

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PEDRO J. GARCIA

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20 Notary Public

21 My Commission Expires:

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CERTIFICATE OF OATH

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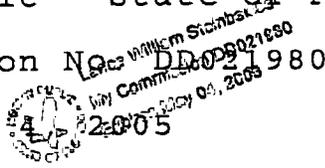
STATE OF FLORIDA :

COUNTY OF DADE :

I, the undersigned authority, certify
that PEDRO J. GARCIA personally appeared
before me and was duly sworn.

WITNESS my hand and official seal this
5th day of June, 2003.

LANCE W. STEINBEISSER, RPR, CSR
Notary Public - State of Florida
My Commission No. **DD0921880**
Expires May **4** 2005



1 REPORTER'S DEPOSITION CERTIFICATE
2

3 I, LANCE W. STEINBEISSER, Registered
4 Professional Reporter, certify that I was
5 authorized to and did stenographically report
6 the deposition of PEDRO J. GARCIA; that a
7 review of the transcript was requested; and
8 that the transcript is a true and complete
9 record of my stenographic notes.

10 I further certify that I am not a
11 relative, employee, attorney or counsel of
12 any of the parties, nor am I a relative or
13 employee of any of the parties' attorney or
14 counsel connected with the action, nor am I
15 financially interested in the action.
16

17 DATED this 5th day of June, 2003.
18

19 _____
20 LANCE W. STEINBEISSER, RPR, CSR
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June 5, 2003

David Stephen Hope,
Attorney at Law

RE: BELLSOUTH V. MIAMI-DADE COUNTY

Dear Mr. Hope:

With reference to the deposition of PEDRO J. GARCIA taken on May 21, 2003, in connection with the above-captioned case, please find enclosed the transcript of said deposition.

Please arrange to have the witness read your copy of the transcript, denoting any corrections by page and line number on the enclosed errata sheet. This errata sheet must be signed by the witness, notarized and returned to Mitchell R. Bloomberg, attorney for the plaintiff, for filing with the original transcript, which has been sent to counsel.

If this has not been taken care of within the next thirty days or by the time of trial, whichever comes first, it will then be concluded that the reading, subscribing and notice of filing have been waived.

Sincerely,

CERTIFIED SHORTHAND REPORTERS, INC.

cc: Original transcript
M. Bloomberg, Esq.