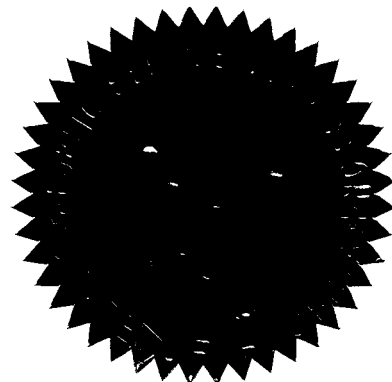


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080159-TP

IN THE MATTER OF:

JOINT PETITION TO INITIATE RULEMAKING
TO ADOPT NEW RULE IN CHAPTER 25-24,
F.A.C., AMEND AND REPEAL RULES IN
CHAPTER 25-4, F.A.C., AND AMEND
RULES IN CHAPTER 25-9, F.A.C., BY
VERIZON FLORIDA LLC, BELLSOUTH
TELECOMMUNICATIONS, INC. D/B/A
AT&T FLORIDA, EMBARQ FLORIDA, INC.,
QUINCY TELEPHONE COMPANY D/B/A TDS
TELECOM, AND WINDSTREAM FLORIDA, INC.



PROCEEDINGS: RULEMAKING WORKSHOP

BEFORE: CHAIRMAN MATTHEW M. CARTER, II
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER KATRINA J. McMURRIAN
COMMISSIONER NANCY ARGENZIANO
COMMISSIONER NATHAN A. SKOP

DATE: Wednesday, September 10, 2008

TIME: Commenced at 9:30 a.m.
Concluded at 5:00 p.m.

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

REPORTED BY: JANE FAUROT, RPR
LINDA BOLES, RPR, CRR
Official FPSC Reporter
(850) 413-6732

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION 8852 SEP 19 8

FPSC-COMMISSION CLERK

1 PARTICIPATING:

2 STAN GREER and JERRY HENDRIX, representing AT&T
3 Florida.

4 SUSAN CLARK, ESQUIRE, representing the Joint
5 Telecommunications Companies.

6 THOMAS M. MCCABE, representing TDS Telecom and Quincy
7 Telephone.

8 DAVID CHRISTIAN, representing Verizon Florida LLC.

9 BETTYE WILLIS, ESQUIRE, and JAMES WHITE, ESQUIRE,
10 representing Windstream Communications.

11 DE O'ROARK, ESQUIRE, representing Verizon Florida,
12 LLC.

13 DEAN KURTZ, representing Embarq.

14 VICKI GORDON KAUFMAN, ESQUIRE, and DOUG GILLAN,
15 representing Competitive Carriers of the South.

16 DAVID KONUCH, representing Florida Cable
17 Telecommunications Association.

18 J.R. KELLY, PUBLIC COUNSEL, and CHARLIE BECK,
19 ESQUIRE, representing the Citizens of the State of Florida.

20 MIKE TWOMEY, ESQUIRE, representing AARP.

21 CECILIA BRADLEY, ESQUIRE, representing Office of the
22 Attorney General.

23 GAIL MARIE PERRY, representing Communications Workers
24 of America.

25

1 PARTICIPATING (continued):

2 GENE ADAMS, ESQUIRE, representing Time Warner Telecom
3 of Florida.

4 MARSHA RULE, ESQUIRE, representing Sprint Nextel.

5 CINDY MILLER, ESQUIRE, Dale Mailhot, Beth Salak,
6 Sally Simmons, Lisa Harvey and Rick Moses, representing the PSC
7 Staff.

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P R O C E E D I N G S

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CHAIRMAN CARTER: Good morning to one and all. I would like to call this workshop to order. Everyone take your seats and get ready.

Let me just kind of take a moment here to have our staff counsel read the notice.

MS. MILLER: Cindy Miller with the General Counsel's Office. Pursuant to notice issued August 22nd, 2008, this date, time, and place was set for a rulemaking workshop in Docket Number 080159-TP, rules relating to telecommunications regulation.

CHAIRMAN CARTER: Thank you.

Before we get started here, let me just check. I think we have -- is it Dr. Taylor on the line, is that right?

DR. TAYLOR: Yes, you do.

CHAIRMAN CARTER: Good morning and welcome.

DR. TAYLOR: Good morning. Thank you.

CHAIRMAN CARTER: Let me do this just for the sake of organization. Let's have those of you at the bench kind of introduce yourself and what party you're from. I'll start with Susan.

MS. CLARK: Thank you, Mr. Chairman and Commissioners. My name is Susan Clark. I am with the law firm of Radey, Thomas, Yon and Clark. We are at 301 South Bronough Street, Suite 200, and that's 32301. And I'm here representing

1 the Petitioners in this workshop.

2 **CHAIRMAN CARTER:** Okay.

3 **MS. WILLIS:** Good morning, Commissioners. My name is
4 Bettye Willis. I am here with Windstream Communications. I am
5 located at our headquarters in Little Rock, Arkansas, 4001
6 Rodney Parham Road, Little Rock, Arkansas 72212.

7 **MR. O'ROARK:** Good morning, Mr. Chairman,
8 Commissioners. My name is De O'Roark. I represent Verizon
9 Florida, LLC. My address is 5055 North Point Parkway,
10 Alpharetta, Georgia 30022.

11 **MR. MCCABE:** Good morning. Tom McCabe with TDS
12 Telecom, Quincy; 107 West Franklin Street, Quincy, Florida
13 32351.

14 **MR. KURTZ:** Good morning. Dean Kurtz with Embarq,
15 location 555 Lake Border Drive, Apopka, Florida 32703.

16 **MS. KAUFMAN:** Good morning, Mr. Chairman and
17 Commissioners. I'm Vicki Gordon-Kaufman. I am with the ASG
18 Litigation firm here in Tallahassee, 118 North Gadsden Street,
19 and I'm appearing on behalf of the Competitive Carriers of the
20 South. Seated to my right is Mr. Doug Gillan, who is a
21 consultant to CompSouth.

22 **MR. KONUCH:** Good morning, Mr. Chairman and
23 Commissioners. I'm David Konuch of Florida Cable
24 Telecommunications Association. We are located at 246 East
25 Sixth Avenue in Tallahassee 32306.

1 **MR. TWOMEY:** Mr. Chairman and Commissioners, good
2 morning. Mike Twomey on behalf of AARP.

3 **MR. KELLY:** Good morning, Mr. Chairman,
4 Commissioners. J. R. Kelly with the Office of Public Counsel.

5 **MS. BRADLEY:** Cecilia Bradley, Office of the Attorney
6 General.

7 **CHAIRMAN CARTER:** You're recognized.

8 **MS. PERRY:** Mr. Commissioner and Commissioners, I'm
9 Gail Marie Perry with the Communications Workers of America,
10 P.O. Box 1766, Pompano Beach, Florida 33061.

11 **CHAIRMAN CARTER:** One second, please. Do we have all
12 of the parties before I go back to staff? Do we have all of
13 the parties?

14 **MR. GREER:** Commissioners, my name is Stan Greer. I
15 represent AT&T Florida.

16 **CHAIRMAN CARTER:** Okay.

17 **MR. ADAMS:** Mr. Chairman, Gene Adams with the
18 Pennington Law Firm, 215 South Monroe Street, Tallahassee,
19 Florida 32301, representing Time Warner Telecom of Florida.

20 **CHAIRMAN CARTER:** Okay.

21 **MR. CHRISTIAN:** Good morning, Mr. Chairman. David
22 Christian, Verizon Florida LLC. The address is 106 East
23 College Avenue, Suite 710, Tallahassee, Florida 32309.

24 **CHAIRMAN CARTER:** Okay.

25 **MR. WHITE:** Good morning, Commissioners. James White

1 representing Windstream Communications, 4621 South Point
2 Boulevard, Jacksonville, Florida.

3 **MS. RULE:** Marsha Rule representing Sprint Nextel.
4 I'm with Rutledge Ecenia at 215 South Monroe in Tallahassee.

5 **CHAIRMAN CARTER:** Do we have everyone? Let's make an
6 appearance for staff.

7 **MS. MILLER:** Cindy Miller with the General Counsel
8 Office.

9 **CHAIRMAN CARTER:** Okay.

10 **MR. MAILHOT:** Dale Mailhot, PSC staff.

11 **MS. SALAK:** Beth Salak, PSC staff.

12 **MS. SIMMONS:** Sally Simmons, PSC staff.

13 **MS. HARVEY:** Lisa Harvey, PSC staff.

14 **MR. MOSES:** Rick Moses, PSC staff.

15 **CHAIRMAN CARTER:** Okay. Thank you. Did I get
16 everyone? I just wanted, for the record, to have everyone
17 identified so as we proceed further we will know who's on first
18 and who's on second. Is it who's on first? What's on first.
19 Who's on second. I don't know is on third.

20 Any preliminary matters before we get started,
21 Ms. Miller?

22 **MS. MILLER:** We do have sets of all the materials
23 available. I think I have spread the word, and they are right
24 up here to everyone. And other than that, no, no additional
25 points.

1 **CHAIRMAN CARTER:** Okay. Commissioners, anything
2 preliminarily before we get going?

3 Ms. Clark, I think you are the lead-off batter.

4 **MS. CLARK:** Yes. Thank you, Mr. Chairman, very much.
5 We appreciate the opportunity to make presentations today and
6 comments that we think will persuade you of the need to act
7 positively on our petition for rule amendments and repeals.

8 I would also like to thank your staff. As we worked
9 in getting these presentations together and over and
10 orchestrating this workshop, they have been very helpful to us,
11 and we had, as you know, a large amount of material to put
12 before you.

13 We are pleased that you have already taken action on
14 a number of the repeals and amendments we suggested in our
15 petition by your decision last week, but we think there is much
16 more to be done, and we are here today to outline the need for
17 further action on these amendments and repeals.

18 Regarding Item Number 1 on your agenda, the
19 competition test. I'm just going to give you sort of a here is
20 what we are going to tell you, that is what this slide is. We
21 will cover the test highlights, why we think this is the right
22 time for streamlined regulation and why the proposed test is
23 appropriate. I will also give you an overview of statewide --
24 from a statewide perspective on competition. That presentation
25 will be followed by presentations from each of the petitioners,

1 and they have introduced themselves today, and we will just
2 move on down the line and move the clicker to everybody as they
3 make their presentations.

4 As you have heard, Dr. Taylor is on the line, and he
5 will provide a more in-depth explanation of the competitive
6 test and why it is an appropriate test for purposes of
7 streamlined regulation. Dr. Taylor is a recognized expert in
8 the telecommunications field. He is the senior vice president
9 of NERA Economic Consulting, and he is the head of their
10 telecommunications economics group.

11 He has a B.A. in Economics from Harvard and both a
12 Master's degree in Statistics and a Ph.D in Economics from the
13 University of California, Berkeley. He has testified in a
14 number of federal and state courts and in various regulatory
15 proceedings as an economic and statistical expert. He also
16 co-authored the report "Intermodal Competition in Florida
17 Telecommunications."

18 So let me start with a very high level summary of the
19 competitive test. And as I say, Dr. Taylor will go into it in
20 more detail. Under our proposed rule, a local exchange company
21 is eligible for streamlined regulation when the market is
22 determined to be competitive. And a market is determined to be
23 competitive if at least three local service access alternatives
24 are present in the market and at least two-thirds of households
25 in the market have access to at least three different

1 providers. Additionally, a company would be eligible for
2 streamlined regulations in all markets if at least two-thirds
3 of its access lines in the state are in competitive markets.

4 Now, regarding why this is the right time for
5 streamlined regulation, we believe it's widely acknowledged
6 that the retail telecommunications environment around the
7 country, and particularly in Florida, has dramatically changed
8 over the last few years. The market has become highly
9 competitive, and Florida has many competitive providers vying
10 to meet the needs of the telecommunications needs of
11 Floridians. The Commission's recent report on the status of
12 competition in the telecommunications industry provides ample
13 evidence of the significant competition that exists today.

14 This first chart is one we took from that report. It
15 shows the continued decline in ILEC access lines. Since 2001
16 there has been a 22 percent decrease in residential access
17 lines. This reflects the existence of facilities-based
18 competition and the choices customers now have. It should be
19 kept in mind that this downward trend is somewhat understated
20 on this chart, because this line loss is occurring even while
21 Florida's population is increasing. And since 2001 it has
22 increased by almost two million people.

23 This is a list of the competitive alternatives
24 available to consumers. Cable broadband is available to
25 94 percent of Florida households. Over-the-top VoIP is

1 available wherever there is a broadband connection. Cable
2 telephone service is available to 81 percent of Florida
3 households, and 99 percent of Florida households have access to
4 at least three wireless providers.

5 This next chart is also taken from your report. You
6 have described the estimates of VoIP as being conservative
7 estimates, but even with these conservative estimates, it shows
8 that VoIP subscribers have nearly doubled over the last year
9 and a half. This chart also shows the vigorous -- I'm sorry.
10 This chart shows the vigorous competition from cable providers.

11 My final chart shows the growth in wireless services.
12 The number of wireless subscribers has more than doubled since
13 2001, and the number of wireless handsets outnumbered wireline
14 access lines by 5.8 million in the first six months of 2007.
15 And it is estimated that over 15 percent of Florida customers
16 have cut the cord; that is, they have disconnected their
17 wireline service in favor of wireless only.

18 Now, that's an overview of the statewide perspective,
19 and I would like to turn it over, first, I think it is to Tom
20 McCabe to give you an overview of the market his company serves
21 in.

22 **MR. MCCABE:** Good morning.

23 Just for a quick overview for those that don't know
24 who TDS Telecom Quincy is. We are primarily a rural incumbent
25 local exchange company headquartered out of Madison, Wisconsin.

1 We operate in 28 states throughout the -- in 28 states. In
2 Florida, we operate in Gadsden County, serving Quincy, Gretna,
3 and Greensboro. And we have approximately 12,000 access lines
4 of which about 8,700 are residential lines.

5 And I'm not -- today I'm speaking on behalf of TDS,
6 but I just wanted to make sure that everyone understands that
7 the other small companies that are not participating in this
8 proceeding do support the direction that we are taking.
9 Unfortunately, it is quite an expensive ordeal to operate and,
10 you know, to appear before the Commission, so we end up having
11 to pick and choose our battles. So I don't want the impression
12 that the other small LECs that are not here today do not agree
13 with the direction that we are going here or recommending.

14 But competition is coming to all our markets, whether
15 you are a large carrier or a small carrier. Regardless of the
16 size, whether it is coming from municipalities, CLECs, wireless
17 providers, or cable providers, we are all experiencing the same
18 types of activities.

19 I just wanted to give you a little -- I find this to
20 be somewhat interesting. This is kind of the national market
21 trend in terms of where wireless is. If you look, there is
22 305 million -- the population in the United States is about
23 305 million. There is approximately 255 million wireless
24 subscribers, which ends up being a percentage of population
25 penetration of about 84 percent. And the same holds true when

1 you start looking at Florida. You have a population of
2 approximately 18.2 million, 15.5 million subscribers, which
3 equates to a population penetration rate of about 85 percent.

4 And I think the other thing that's interesting, if
5 you go ahead and assume 20 percent of Florida's population is
6 under the age of ten, and I say ten because my daughter turned
7 11 and I had to get her a cell phone. So if you assume that 10
8 percent -- 20 percent of the population is under the age of 10,
9 you're looking at about a reduction of the population of
10 3.64 million people, which ends up being about 14.6 million for
11 population, and yet you have 15.5 million wireless subscribers.
12 So there is not too many people out there that don't have a
13 wireless phone today.

14 And as indicated in the Commission's competition
15 report, it indicates that there are a little over a million
16 residential VoIP subscribers in Florida. And Comcast has
17 announced that they are the fourth largest voice provider in
18 the United States.

19 Now, in terms of comparing this to my market in
20 Quincy, between January 2006 and August 2008 we have lost
21 1,250 total access lines, or about 10 percent of our market.
22 About 1100 of those are residential customers, which equates to
23 about 13 percent. Within this small market, TDS faces robust
24 competition for voice and data services. Existing competitors
25 in our market include three facility-based providers. Comcast

1 has recently submitted an interconnection request, so we
2 anticipate that they will be rolling out their voice over IP
3 product. We have MediaCom operating in my market, and then I
4 have the City of Quincy who overbuilt with a fiber network that
5 is funded by the taxpayers.

6 In addition, I have got five wireless providers. We
7 have AT&T, Verizon, Sprint-Nextel, Alltel, T-Mobile. And
8 T-Mobile recently began offering a ten-dollar home phone
9 service. Prepaid wireless providers such as Tracfone, which
10 this Commission has designated as an ETC. In addition, the
11 Commission has designated Sprint-Nextel as an ETC, which allows
12 them access to federal high cost support in my market.

13 The other thing also just to point out in terms of
14 what we are seeing within the city limits of Quincy, I've got
15 Net Quincy and Comcast soon to be entering into that market.
16 And based on the 2000 census data, there are 2,900 households
17 in that market. So there is certainly robust competition
18 there.

19 Our objective in this proceeding is really rather
20 simple and straightforward. We think that we need to have
21 regulatory parity. Cost of regulation, especially for small
22 local exchange companies, it's expensive and it's
23 time-consuming and does not necessarily meet the demands of our
24 customers.

25 Small local exchange companies don't possess market

1 power. I was reading a Golf Magazine last night and saw an ad
2 in there from Comcast. I can promise you, you are not going to
3 see an ad from Quincy Telephone Company in Golf Magazine.

4 The other problem that we have is that the Florida
5 Commission does not have any jurisdiction over our strongest
6 competitors, such as cable telephony and wireless providers.
7 Looking at the number of wireless subscribers, the number of
8 VoIP telephony providers, you are looking at about 16 million
9 subscribers today that receive service from an unregulated
10 provider. I have to question is there really a need to
11 regulate my 8,700 residential access lines? And that's the
12 focus that we have here, and that is geared towards parity.
13 And this slide here just shows you the regulated companies in
14 my market and the nonregulated companies in my market.

15 Thank you.

16 **CHAIRMAN CARTER:** Before we go further,
17 Commissioners, what I was going to do is allow everyone to go
18 ahead on and make their presentation and then we will break for
19 questions at that point in time. But if at any time you have a
20 question, we can always just stop. But, if that meets with
21 your -- kind of give us a general overview for everything.

22 Also, staff, if after we hear from everyone you have
23 any questions, we can do it at that point in time. Okay?

24 All right. Mr. O'Roark.

25 **MR. O'ROARK:** Mr. Chairman, Dave Christian will make

1 Verizon's presentation.

2 **CHAIRMAN CARTER:** Good morning, Mr. Christian.

3 Welcome back.

4 **MR. CHRISTIAN:** Thank you.

5 **CHAIRMAN CARTER:** Commissioners, let's do -- we need
6 to take five minutes for a technical so we can plug in their
7 presentation, so let's just recess five minutes.

8 (Recess.)

9 **CHAIRMAN CARTER:** We are back on the record and we
10 have got our technical difficulties resolved. And by the way,
11 Commissioners, just as a heads up, after we finish this
12 presentation we have got to switch out the technology system
13 again.

14 Mr. Christian, you're recognized.

15 **MR. CHRISTIAN:** Thank you, Mr. Chairman. Good
16 morning, Mr. Chairman and Commissioners. My name is David
17 Christian. I'm the Vice-President of Regulatory Affairs
18 representing Verizon Florida LLC. It's certainly a pleasure to
19 be here this morning. My presentation will focus on the
20 competitive forces underway in Verizon's Tampa Bay region
21 service territory. I'll demonstrate the level of competition
22 by sharing with you a unique perspective on the barrage of
23 competitive advertising that customers are faced with every day
24 in our unique part of Florida.

25 In this first ad you will notice that our competitor,

1 Bright House, emphasizes the regulatory red tape that we have
2 to deal with and they don't. If you look carefully, they
3 brought in an actor to play my colleague here, Mr. O'Roark.
4 Let's take a look.

5 (Video played.)

6 As you can see from this next chart, customers have
7 alternatives and Verizon has experienced a significant
8 residential access line loss. This chart represents a decrease
9 in residential access lines. In 2004, we had almost
10 1.6 million lines. And in a three-year time frame we have lost
11 one-third of our total access lines. And as you can see,
12 access line losses are increasing over time. The biggest jump
13 you will notice is 19.1 percent, which was captured in your
14 competition report for a year and a half period from 2006 to
15 2008. Our service territory is the most competitive in the
16 state when you consider the access line loss, and since 2001 we
17 have lost approximately 40 percent of our residential access
18 lines.

19 Who are our competitors? In this map, although it
20 didn't come out perfectly, you get a sense of the Tampa Bay
21 region. This map shows Verizon's territory with cable
22 companies overlaid in various colors. Bright House, which is
23 represented in light beige on the map, which covers the whitish
24 areas, you will see, except for Pinellas County, even though
25 Bright House is there along with Knology, they are the second

1 cable provider in Pinellas County. One hundred percent of
2 Bright House territory offers voice, video, broadband, and
3 internet. And you will also notice in green, I believe, that
4 in some of the southern counties that Comcast is the cable
5 company, the incumbent cable company that we are competing
6 against. Other companies that aren't on this map include
7 wireless providers, which are not shown, VoIP providers, and
8 CLECs.

9 Let's go back to the videotape. Notice who Vonage is
10 competing against here.

11 (Video played.)

12 This ad is directed primarily at the cable companies,
13 not at Verizon. Your own comp report cites that Vonage has
14 2.5 million national customers.

15 Our next slide is just further information about
16 Vonage's offerings that are national in scope, but certainly
17 available to anyone with a broadband connection.

18 Let's go to another commercial here. This one is
19 from T-Mobile, a wireless carrier.

20 (Video played.)

21 Well, you can see they are coming after us using
22 their own technology. I think if we found someone doing that
23 we would probably prosecute them to the full extent of the law,
24 but this clearly highlights the trend that is underway in Tampa
25 Bay and virtually everywhere else across the country, that

1 customers are cutting the cord, and we know that about
2 16 percent of customers have done so already. In Tampa Bay,
3 virtually every customer, 99.9 percent of our customers, have
4 four or more wireless carriers available to them, and 100
5 percent have access to two or more wireless providers.

6 The next slide here is, again, some more information
7 about T-Mobile's new home phone offering. I did some research
8 on this, and it looks like they are using a mobile router over
9 a broadband connection to connect your home phone to a
10 broadband connection, as well, and this is \$10 a month for the
11 home phone service. Rather interesting.

12 In the next slide there is another new service called
13 magicJack. You may have seen this on late night television on
14 infomercials. It's a little connector that plugs into a USB
15 port into your computer, and you can plug your phone into it.
16 And the service prices with the original jack are listed there.

17 And I thought another interesting service that
18 highlights the VoIP competition that is underway is a service
19 called OOMA (phonetic). This is another VoIP provider where
20 you simply buy the hub, and you do not pay any other calling
21 charges after you purchase the hub. This, again, is a VoIP
22 connection using broadband technology.

23 Now, there are certainly other providers in our
24 territory. This is just an overview of metro PCS, which is
25 providing itself as a local phone provider, but it's a wireless

1 carrier. AT&T Wireless certainly is a predominant carrier in
2 our service territory. And Knology I mentioned before is one
3 of the over-builders in Pinellas County that offers digital
4 cable, phone, and Internet service.

5 And real quickly, here is a print ad from Comcast
6 that says they have tens of thousands of west Florida residents
7 that have switched to Comcast phone service.

8 Now what do we did do about all of this competition?
9 I will show you in this ad.

10 (Video played.)

11 And in closing, Commissioners, by 2008 Verizon will
12 have spent more than a billion dollars on its FiOS build-out
13 passing more than a million households in Tampa Bay. Right now
14 800,000 homes and businesses in west central Florida can now
15 choose unmatched broadband speeds in so much as our competition
16 for the paid TV services via Verizon's transformational,
17 reliable, all fiberoptic network. Most importantly, an all
18 fiberoptic network provides advantages in addition to superior
19 services for customers. Fiberoptics offers more reliable
20 services in stretches of wet weather that we experience quiet a
21 bit in the Tampa Bay region that effect other copper-based
22 networks. This new network will have greater reliability and
23 lower maintenance costs, and it is one of the prime reasons why
24 we have gone forward with such a massive build-out in our
25 service territory.

1 With that I'm happy to answer any questions. Thank
2 you.

3 **CHAIRMAN CARTER:** Commissioners, as I said earlier,
4 now after this presentation we have got to recalibrate our
5 technology and be prepared. So let's take another five minutes
6 unless you have any questions.

7 (Recess.)

8 **CHAIRMAN CARTER:** Thank you to our staff for getting
9 that technical problem taken care of. I think that we may have
10 a couple more, but I think that the next technical things we
11 have is just a matter of switching and it will be compatible
12 with our computer system here. With that, we just finished
13 with Mr. O'Roark and we had Mr. Christian. Who's next?

14 Ms. Willis, you're recognized.

15 **MS. WILLIS:** Thank you, Commissioners. Good morning,
16 again.

17 For those of you who are not familiar with
18 Windstream, Windstream is a mid-sized telecommunications
19 company that operates in 16 states in predominately rural
20 markets. Windstream was formed in 2006 from the spinoff from
21 Alltel's wire line business. In Florida, Windstream serves in
22 27 exchanges in north central Florida and all rural markets.

23 Like you have heard before from Tom and Dave and
24 others, I will talk about the state of competition in
25 Windstream's local market and the need for regulatory change

1 here in Florida. This may seem redundant, but it's only
2 because competition is flourishing in Florida, whether you look
3 at it market-by-market, urban or rural, or statewide.

4 The number of telecommunications providers and types
5 of communication services have increased resulting in a new
6 competitive environment where different technologies are now
7 being deployed to target individual customer preferences. This
8 is true for both urban and rural markets, and this Commission
9 has recognized that change in the marketplace in their 2008
10 local competition report.

11 The 2008 local competition report stated that through
12 December 2007 wireline residential access lines have declined
13 by approximately 2.7 million since 2001. The report also
14 states that the primary reason for this decline in residential
15 access lines is the substitution of wireless and VoIP services
16 for traditional wirelines. Additionally, that report states
17 that total rural access lines declined by 16,861 in the period
18 from June 2006 to December 2007, which is an 8 percent decline.
19 Of all the rural service providers, Windstream had the highest
20 percentage of access line loss.

21 As you can see from this slide which shows our access
22 line loss since 2000, Windstream has experienced year over year
23 line loss. Windstream went from a high of 98,867 access lines
24 in 2001 when we actually thought we may cross the threshold of
25 100,000 access lines and become a large ILEC in Florida.

1 Unfortunately, instead of increasing we declined. As of
2 July 2008 we have 88,457 access lines, an approximate 10
3 percent decline in access lines over this period of time. In
4 the period from 2004 to 2006, Windstream experienced a
5 7 percent access line loss, while households in our territory
6 increased by 3 percent in Windstream's exchanges during that
7 same period of time. These statistics are real indications of
8 the competitiveness in Windstream's market.

9 This is a slide that gives you a pictorial view of
10 Windstream where we serve in Florida, the exchanges that we
11 serve, and the sizes of our exchange. Although in Florida
12 Windstream competes in very rural markets, we do compete for
13 all of our customers. Despite the ruralness of our markets,
14 Windstream competes with large national companies such as Cox,
15 Comcast, Alltel Wireless, Verizon Wireless, and AT&T Wireless.

16 Included in those is also Vonage. As you saw in the
17 ad that Dave showed earlier, those are national campaigns that
18 play everywhere, including in rural markets.

19 This is an indication of the significant amount of
20 intermodal competition that now exists between Windstream and
21 these non-traditional service providers. These formerly
22 disparate industry sectors are now in direct competition.
23 However, the amount of regulatory oversight in the
24 telecommunications market is not equitable for all competitors
25 nor has it kept pace with the changing environment.

1 This is just a list of Windstream's major competitors
2 in Florida, which also includes over-the-top VoIP providers
3 such as Vonage. Ninety-eight percent of the households in
4 Windstream's market have two or more wireless providers and
5 82 percent have three or more. Approximately 89 percent of the
6 households passed by cable in our market are cable broadband
7 ready, and approximately 15 percent are cable telephony ready.

8 Any access line with a broadband has the ability to
9 subscribe to over-the-top VoIP services such as that offered by
10 Vonage. Windstream provides broadband service to approximately
11 86 percent of its total market here in Florida.

12 This slide is an example of some of the statistics of
13 our greatest competitors. Comcast, who is depicted as the
14 fourth largest telecommunications company in the U.S., competes
15 with Windstream in our north central Florida area rural
16 markets. Cox, in an advisement in our markets, boasts of
17 having the largest local calling area in north central Florida.
18 We also compete with wireless carriers such as Alltel, Verizon,
19 AT&T Wireless and Sprint, all who have unlimited calling plans,
20 national unlimited calling plans. T-Mobile is also marketing
21 its home service for 9.99 a month, which is a substitution for
22 the wireline service that we provide.

23 There is broadband competition in more than half of
24 our exchanges. Again, these customers, anyone with a broadband
25 connection, can subscribe to an over-the-top VoIP provider. As

1 Mr. McCabe said earlier, how much sense does it really make to
2 heavily regulate companies such as Windstream and not regulate
3 companies such as these who are much larger and provide service
4 to thousands if not millions of customers in the state of
5 Florida?

6 This is just the Cox ad that is running in our
7 territory. This slide shows just some of the regulations that
8 Windstream must comply with compared with the regulations of
9 our major competitors. As you can see, we have regulations
10 regarding our services; our competitors have none.

11 Windstream's view, like the other companies, is
12 fairly simple. There is need for change in Florida's
13 regulatory requirement and that can occur if competition
14 continues to grow and mature. But that change should begin now
15 to ensure that there is continued growth in competition and
16 continued investment in innovative technologies and services.

17 In light of the significant competition that
18 currently exists, scarce and costly government resources can be
19 successfully redeployed to maximize benefits to customers and
20 minimize the burden on taxpayers. The Commission rules should
21 be revised or eliminated to reflect the vibrant competitive
22 market and level the playing field for all providers.

23 Thank you.

24 **MR. KURTZ:** Good morning, Mr. Chairman.

25 Let me turn my mike on, that might help.

1 Mr. Chairman, Commissioners, Commission staff, just
2 to reintroduce myself, I am Dean Kurtz. I am the Senior State
3 Executive for Florida for Embarq. Embarq is a mid-sized
4 wireline provider. We serve 18 states throughout the United
5 States. Florida is the largest in terms of access lines.

6 In the state of Florida we serve all the way from
7 Destin and Fort Walton Beach down to Fort Myers and Naples. In
8 between, our ILEC brethren around the area of Orlando. And
9 contrary to the billboard I saw on the way in this morning
10 where Comcast is the new home phone company in Tallahassee, we
11 are the most experienced and best home phone company in
12 Tallahassee.

13 So my colleagues have done a great job this morning
14 describing the situation, access line loss and competitive
15 nature of the environment that we are in right now. We, at
16 Embarq, decided to take a look at something else. It is very
17 easy to calculate for us the loss of what we had in terms of
18 access line loss. One of the things we have struggled with and
19 we have tried to approximate is the universe that is out there
20 that we never got to begin with. So what we attempted to do
21 through regression analysis is forecast, absent any other
22 provider or any other technology, what would be the universe of
23 potential customers out there.

24 So going back in time, this first slide represents --
25 we went back to 1993, and from 1993 to 2000 there was a strong

1 correlation between our residential access line growth in the
2 state and household growth. So you can see the line right
3 there and the strong correlation.

4 The next slide shows that this correlation falls
5 apart with the advent of effective competition. Households
6 continue to dramatically increase, while as competition became
7 more effective around 2000, access lines started their
8 decrease. As I said before, it's very easy. Embargo specific,
9 you can see where we peaked in terms of residential access
10 lines at 1.5 million in 2000, and we have continued to decline
11 since that time. At the end of 2007, we stood at 1.15 million
12 access lines.

13 When applying regression analysis to the household
14 growth, this slide here estimates, absent competition and if we
15 were still in a strictly monopoly environment, that the
16 universe of access lines out there potential would have been
17 over 2 million. But with the advent of competition,
18 alternative technologies, our access lines actually stand at
19 1.1 million, which is about 56 percent of what we had
20 forecasted as the universe of possibilities.

21 So what we are trying to find out is there has been
22 growth in technologies, growth in population, growth in
23 households, access lines have continued to go down, and this is
24 the actual delta if in a -- 40 years ago this has been the
25 monopoly environment, and we were the only game in town,

1 approximates where we would be if it had not been for the other
2 competition and technology.

3 Our cable competitors -- this is growth from Marc
4 Smith in 2002, that their stance is very deregulatory. We
5 don't think cable telephony service should be regulated. When
6 you launch a competitive service, the best thing to do is to
7 allow the marketplace to do its thing. And we agree with that.
8 We think in a competitive environment we ought to let the
9 market control what goes on.

10 I'm not going to go through these statistics again.
11 You have heard them from all the previous presentations. It
12 just shows the advent and increase in wireless as an
13 alternative in the state, and its growth has been constant. I
14 think we are up to about 13 million wireless phones in the
15 state now, which is significant growth over the last ten years.

16 The other thing we're talking about, regulatory
17 parity, competitive neutrality, deregulation, whatever you want
18 to call it, this is just a slide depicting some of the things
19 that we are subject to in a regulatory environment that our
20 competitors are not subject to. You know, service provisioning
21 oversight, answer time, reporting requirements, and tariff
22 requirements. And we think that we all ought to be on the same
23 playing field when it comes to competition as our competitors,
24 and here we clearly are not.

25 In summary, as we have seen from the slides,

1 facilities-based competition is thriving in Florida. They are
2 not -- our facility-based competitors are not operating under
3 the same regulatory requirements as ILECs, and that's why
4 we sit before you today. We need to move toward a regulatory
5 parity environment, level the playing field so we have
6 competitive neutrality. So thank you.

7 **CHAIRMAN CARTER:** Thank you very kindly, Mr. Kurtz.

8 **MR. GREER:** Good morning, Commissioners. My name is
9 Stan Greer. I'm here on behalf of AT&T Florida. I will try to
10 be very brief since a lot of the information that is in the
11 slides have already been addressed by the other companies.

12 In preparation for this workshop, I went back and
13 looked over my time in the regulation in Florida which I
14 realized is over 20 years now. Eleven with the staff and ten
15 or so with AT&T Florida. We started back prior to '96 with a
16 single monopoly carrier that was a carrier of last resort.
17 Today we are moving to, and are at essentially multiple
18 carriers, as the parties have expressed, VoIP, wireless,
19 competitive local exchange carriers, and the ILECs, as well.
20 Today competition is very vibrant in the network. It's there,
21 it's growing, and as some of the parties have expressed, we
22 have wireless, over a million or two wireless-only customers in
23 Florida that have selected to only take wireless service. I
24 haven't done that yet, but it may be in the near future.

25 The line loss that AT&T Florida has experienced --

1 and if you look at the second slide, the line loss that AT&T
2 has experienced is essentially about almost 40 percent since
3 2000, which comes out to almost two and a half million access
4 lines in that period of time. That is about a third of our
5 access lines in Florida. It is very substantial for us, and we
6 compete every day with various carriers, some of which have a
7 lot of regulation. The other ILECs, we do compete with the
8 other ILECs in some areas. Some that have very little
9 regulation, which are the competitive local exchange carriers,
10 and then some that have no regulation from you, the VoIP
11 providers and the cable companies. It is difficult to do that.

12 We believe that the Commission ought to look
13 seriously at these rules and take a very close look to see
14 whether or not the rules that we have put before you that
15 should be eliminated or waived once parity -- once a
16 competitive environment has been demonstrated to you, that the
17 Commission ought to look very close at each rule to see whether
18 or not the rule itself is necessary in a competitive
19 environment and whether or not it promotes competition.

20 These rules have been in place -- most of these rules
21 have a history of being in place in the '60s and '70s. They
22 have changed somewhat over time as regulation and technologies
23 have come out, but they need to be looked at closer to see
24 whether or not they even need to be here. The parties have not
25 petitioned the Commission to change some rules that we believe

1 are very important, 911 as an example, Lifeline as being an
2 example. If the Commission has a specific issue or concern
3 that they have, the parties are willing to sit down and see if
4 we can come out to some resolution that would be acceptable.

5 We have today -- operationally doing things that we
6 wouldn't do just because of some of these rules. Because some
7 of them create inefficiencies that we need to address, and we
8 can address those later if you want.

9 Besides that, Commissioners, I believe that's all I
10 have. Thank you.

11 **CHAIRMAN CARTER:** Who's next?

12 **MS. CLARK:** Mr. Chairman.

13 **CHAIRMAN CARTER:** Yes, ma'am.

14 **MS. CLARK:** The next phase of our presentation is the
15 presentation by Dr. Taylor who, I hope, is still on the line.

16 **DR. TAYLOR:** Yes, he is.

17 **MS. CLARK:** We have, by the presentations that just
18 preceded this, sort of given you the context for thinking about
19 the test and why it is the appropriate test to determine
20 whether or not streamlined regulation is appropriate. So now I
21 would like to go ahead and turn it over to Dr. Taylor. And,
22 Dr. Taylor, if you would let us know when we should change the
23 slide, I would appreciate it.

24 **DR. TAYLOR:** Thank you, Susan. And thank you,
25 Commissioners, for allowing me to put my word in. If you are

1 looking at Slide 61 with the little red telephone on it, this
2 and the next slide simply repeat what the proposed rule is.
3 The proposed rule says that streamlined regulation is
4 appropriate in a competitive market where competition or a
5 competitive market for this purpose is defined as three
6 platforms where a platform is wireline, wireless, broadband
7 cable, or something else that the Commission approves, and at
8 least two-thirds of households within a market have access to
9 three different providers.

10 Turning to Slide 62, the market in question, the
11 geographic market, is defined flexibly because these carriers
12 are different, and a carrier in total by these rules will be
13 eligible for streamlined regulation everywhere if at least
14 two-thirds of its access lines in Florida are in markets
15 determined to be competitive by this standard. All right.

16 Now, why is this a good thing? Please turn to Slide
17 63. The test is economically sound, it's objective, and it's
18 easy to apply to determine whether a market is sufficiently
19 competitive for streamlined regulation.

20 Now, the main characteristic that's important is that
21 it is a bright line test. It is based on readily verifiable
22 data, the number of alternatives and the number of households,
23 the proportion of households that can reach those alternatives,
24 and it is based on objective criteria. This makes it different
25 from the kind of standard you might use or think about for

1 pricing deregulation or something like that. This is a
2 different standard. It's what you would call a trigger. It's
3 objective and it is quickly done. Its results are highly
4 correlated with the absence of market power. If those
5 standards hold, it's unlikely that market power would hold.
6 But the main point is it's objective and it can be applied in a
7 timely manner. It doesn't help the market, and it doesn't help
8 consumers to have protracted evidentiary hearings looking and
9 asking about market power and asking whether the competitive
10 glass is half empty or half full.

11 This move to triggers as opposed to evidentiary
12 examinations of the characteristics of market power is not
13 unusual in telecommunications. The FCC did it in its special
14 access pricing rules, the New York Public Service Commission
15 staff proposed it in its 2005 white paper. So it's a common
16 thing and a useful thing.

17 The test is motivated by -- it is justified by the
18 presence of competition, not necessarily the extent of
19 competition, but the presence. So that future competition in
20 those markets will be determined by market forces, not by
21 asymmetric regulation. The test tells us where competition is
22 present, and that's where the cost of continued regulation is
23 high, so it ought to be removed; and where the circumstances in
24 those markets are materially different from the circumstances
25 when the regulation was put in place. So that is why the test

1 tells you it is time to get rid of -- to modify a regulation.

2 Turning to 64, the test focuses on current and
3 prospective factors. It doesn't look at historic market share,
4 and the reason is because current and prospective factors are
5 those that determine current behavior, not historical factors.
6 By including wireless as a platform, the test recognizes the
7 obvious trend we all observe of cutting the cord. And even
8 though only a small fraction, 15 or 16 percent of households
9 are completely off the wireline network, for telecommunications
10 firms, for the technology, which is high fixed cost, low
11 variable cost, 15 percent is a great big number, and it effects
12 the ability of a wireline company to increase prices because
13 when a wireline company loses customers in this fixed cost
14 environment it loses revenue, but it doesn't lose costs.

15 The test is really more stringent than absolutely
16 necessary. We look over at current competitors, we don't take
17 into account as perhaps the merger guidelines of the Justice
18 Department might, entry and expansion into adjacent markets by
19 new customers -- by new providers.

20 If you can turn to Slide 65, an odd characteristic of
21 the test is the flexibility it permits for the geographic
22 market; that is, it makes it provider specific. The reason is,
23 the reasons are, first, that the markets are very different.
24 As you heard in the previous presentations, they are very, very
25 different markets, very different companies that serve rural

1 Florida and urban Florida and circumstances are different in
2 each of their territories.

3 Moreover, the geographic definition of a market is
4 not really very important for ascertaining whether you should
5 have relief from the rules. Perhaps an argument could be made
6 that it's important for pricing flexibility. I would tend to
7 disagree. But it certainly isn't important as far as relief
8 from the rules are concerned, because rules generally apply
9 company-wide in the state. Moreover, services are generally
10 marketed on a statewide/region-wide footprint for each company.

11 The test criterion is applied to residential service
12 because, after all, that's -- we have already had major
13 relaxation in my understanding in rules for business services.
14 Also, businesses often buy services through contracts where the
15 terms and conditions which might be affected by general rules
16 are determined by negotiation, not by the rules themselves.

17 And it has been my observation across states over the
18 years that business services are generally more competitive
19 than residential services. And, finally, you really can't have
20 different accounting rules apply to a company with respect to
21 business services and residence services.

22 Turning the page to 66, the local service
23 alternatives are those which are on the table today, and the
24 proposed rule permits the Commission to add other technologies
25 when they think that that is appropriate. The proposed rule is

1 conservative in the sense that it counts broadband, but it
2 doesn't count DSL service when it is bundled with a
3 telecommunications service.

4 Turning the page to 67. The rule says if a company
5 has two-thirds of its access lines in a competitive market,
6 then the entirety of the company should be subject to
7 streamlined regulation rules, and that makes perfect sense
8 because for many of the rules, most of the rules, it would
9 really be administratively burdensome and really sort of silly
10 to try to have different rules, regulatory rules, apply to a
11 company in some territories rather than another.

12 Turning to Slide 68. Though there would be
13 disagreement in the room, I am sure, whether the test ensures
14 that no company can exercise market power, it is certainly my
15 view as an economist or the view of many that that is the case.
16 Now, how that affects this docket is sort of different in that
17 the companies are not asking for relief from pricing
18 regulation, but rather a specific set of other rules. So to
19 the extent that the presence of market power was the
20 justification for some of these rules, they ought to be, in my
21 view, relieved because the test assures that in these areas
22 that there is no market power.

23 Competition, as we all know, puts customers in the
24 driver's seat. It relieves the Commission from a great deal of
25 its responsibility in terms of providing quality of service in

1 terms and conditions that customers demand. Customers, if they
2 don't like what they get, have many alternatives as you have
3 seen earlier today.

4 The real problem or the real reason why relief is
5 important where there is competition is that asymmetric
6 regulation is distorting the competitive process and distorting
7 it worse where there is most competition and there is very
8 little that the Commission can do about this because the actors
9 in question are those over which the Commission has limited or
10 no regulatory authority.

11 And then, finally, Slide 69 -- I have Slide 69, which
12 suggests that other states have used similar competition tests.
13 I believe the latest NRRI report of about last year listed 18
14 and 17 local service deregulatory activities. I mentioned the
15 FCC and the New York Public Service Commission's use of trigger
16 tests as opposed to other measures of market power.

17 **MS. CLARK:** Mr. Chairman. Mr. Chairman, Dr. Taylor,
18 just let me indicate that that was one slide that we did not
19 provide the Commissioners with. We were focusing on the
20 Florida --

21 **DR. TAYLOR:** Okay. You missed, then, a pretty
22 picture of the stars and stripes on my slide. At any rate,
23 that concludes my presentation, and thank you for the
24 opportunity.

25 **CHAIRMAN CARTER:** Thank you.

1 Commissioner Argenziano.

2 **COMMISSIONER ARGENZIANO:** -- while we might have
3 missed a pretty picture, the first slide showed a rotary phone,
4 which I saw last week in an antique shop.

5 **MS. CLARK:** Mr. Chairman, that has concluded our
6 presentations with regard to your Agenda Item 1. So if there
7 are questions, this might be a good time. But I certainly
8 defer to you, Mr. Chairman.

9 **CHAIRMAN CARTER:** Okay. Let's do this:
10 Commissioners, we can go with staff first or Commissioners
11 first, what's your pleasure? Why don't we go from the bench
12 and then we will pick up with staff.

13 Commissioner Argenziano, you're recognized.

14 **COMMISSIONER ARGENZIANO:** Well, I'm trying to
15 understand some of the points made in the presentations and --

16 **CHAIRMAN CARTER:** Commissioner, before you do that,
17 let me just say this to the Office of Public Counsel and the
18 Attorney General's Office. We will give you an opportunity for
19 questions, as well, okay? I didn't forget about you.

20 **COMMISSIONER ARGENZIANO:** And that might help in
21 answering some questions with staff and the Public Counsel,
22 because I would like to know everybody's point of view as well
23 as the companies involved.

24 What I'm hearing, of course, is that there is
25 increased competition, which I remember back in my legislative

1 days most of you guys wanted that increased competition. We
2 think you did anyway. But because of that increased
3 competition, you feel that, and as Dr. Taylor had mentioned,
4 the cost of regulation is high, and I'm trying to figure out
5 how the cost of keeping quality of service is high. And are
6 you saying that providing less quality is cheaper and,
7 therefore, makes a good business decision? Because I would
8 think that if you didn't have quality of service, you would
9 lose more customers.

10 I guess the question is really how do you find that
11 the regulation of quality of service in making sure that we
12 maintain quality of service, which we have statutory authority
13 over, we don't on the other -- many of the other areas that you
14 have represented as being in competition.

15 **MS. CLARK:** Let me just lead it off, but I think the
16 companies are going to want to speak to that. And it is not
17 that we are proposing any degradation in the quality of
18 service. That is absolutely not the case. But what we want to
19 focus on is the quality of service customers value. And I
20 think as we get to Item 2 you will hear some of what the
21 customers value in terms of the quality of service. That these
22 rules that outline the quality of service were instituted when
23 there was no competition, and to some extent they are
24 arbitrary. It was the regulatory thought as to what would be
25 the appropriate level of service where you have no competition.

1 Now that you have competition, the customers have a
2 choice to go and take service from the company that provides
3 the services and the quality of service they value. And I
4 would ask if Dr. Taylor has anything to add on that point.

5 **DR. TAYLOR:** Sure. Two quick things, but I think you
6 really hit it. One issue is our competition provides the
7 regulation of quality of service. If you don't like the
8 quality of service you get from the wireline telephone company,
9 you have got alternatives.

10 But, number two, what's really important here is
11 asymmetric regulation is really sort of screwing up that
12 competition. If wireline telephone companies have to provide
13 answer times when you call up for service that are shorter,
14 quicker than customers are willing to pay for, it is more
15 expensive to provide, then those wireline companies are at a
16 disadvantage compared with a cable company or a wireless
17 company that doesn't have to meet that standard that customers
18 don't want. And that's the basic difference, I think, here.

19 **COMMISSIONER ARGENZIANO:** And I understand that. I
20 understand what you are saying, that asymmetric regulation.
21 But there is a difference between federal mandates and
22 statutory -- state mandates to this Public Service Commission.
23 We don't have control over cell phones. But I will note also
24 that many states seem to be moving towards not more regulation,
25 but at least some type of rules that apply to wireless and

1 cable right now as far as customer service. So that may be
2 coming in the future because of maybe problems that customers
3 are having out there. So I have a concern about, I guess,
4 removing quality of service, and I'm trying to fit it in. And
5 I understand that competition dictates, you know, your customer
6 now can go someplace else if they don't like your service. But
7 I also see states moving in the direction of possibly saying,
8 hey, we need to be looking at customer service with wireless
9 and cable, also. So I'm not sure it's, you know, the proper
10 time.

11 **MS. CLARK:** Commissioner, I would just interject that
12 to me it raises the question if it is good for the ILECs to be
13 subject to this, you know, there are other local exchange
14 companies that you do have jurisdiction over represented by
15 some of the people over here. And I would certainly think they
16 do not think it is -- it would be appropriate for them to be
17 subject to these.

18 What I would say is legacy quality of service rules
19 that probably have no relationship to what customers now value.
20 I will just give you an example. My own children would rather
21 get an automated service to answer their questions to deal with
22 their service than a person. And I just think it really is
23 best left to the competitive market to determine what is
24 valuable in quality of service and what customers value in
25 terms of what they get from their individual provider.

1 Tom McCabe may have something to add.

2 **CHAIRMAN CARTER:** I guess the perspective is
3 deregulation is fine, but you should maintain customer service,
4 quality customer service. I think that is kind of -- that is
5 the way I read your question, Commissioner. And I do believe
6 that in this competitive environment, notwithstanding we don't
7 have jurisdiction over the wireless, I believe I would rather
8 on the federal level consider those kinds of things, too,
9 because I think they are just as concerned about customer
10 service issues as we are.

11 **MS. CLARK:** Well, I would just remind you that unlike
12 when you were under a monopoly regulatory environment, if the
13 service is not there, they will move. And that is the real
14 motivation for them providing the quality of service.

15 **CHAIRMAN CARTER:** Okay. Let me do this,
16 Commissioners, is I wanted to go -- yes, Commissioner
17 Argenziano.

18 **COMMISSIONER ARGENZIANO:** A question for staff to be
19 thinking about later. Aren't there a lot of bigger companies
20 buying out a lot of the small companies today, and thus maybe
21 eliminating -- and there is a lot of competition out there,
22 granted, but isn't there a lot of that happening in today's
23 world?

24 **MR. MAILHOT:** Yes, I believe there is still a fair
25 number of smaller companies that are being purchased by holding

1 companies. I don't think it's occurring quite as much as it
2 was five or ten years ago.

3 **DR. TAYLOR:** There is some move in the other
4 direction; that is, large companies selling off territory. You
5 know, Verizon sold off New England essentially, and other
6 companies have -- large ILECs have sold exchanges. So there's
7 movement in both directions.

8 **CHAIRMAN CARTER:** Thank you.

9 Commissioners, I would like to ask Mr. Beck and
10 Ms. Bradley if they would like to maybe speak to this issue,
11 and Mr. Twomey. Mr. Beck, and then Ms. Bradley, and then
12 Mr. Twomey. We're just speaking in the context of the quality
13 of service issue that was raised. But if you deem other issues
14 appropriate at this time based upon what we have heard, let it
15 roll.

16 **MR. BECK:** Mr. Chairman, both Mr. Kelly and myself
17 had planned some comments when we reached Section 2 on quality
18 of service.

19 **CHAIRMAN CARTER:** Okay.

20 **MR. BECK:** I don't know if you will keep going down
21 the line after --

22 **CHAIRMAN CARTER:** We will do that. We will do that,
23 then. We will do that. That will be fine.

24 Ms. Bradley, do you want to do it now or -- that
25 would be Item 2, Mr. Beck, is that correct? When we get to

1 Item 2.

2 Ms. Bradley.

3 **MS. BRADLEY:** Mr. Commissioner, I just have a few
4 comments on this test that we are talking about.

5 **CHAIRMAN CARTER:** You are recognized.

6 **MS. BRADLEY:** The way it is laid out, it is kind of
7 an artificial test. One of the first things I noted was they
8 are talking about all of these options, VoIP, cable, broadband,
9 and yet when you look at those, in order to do VoIP you have
10 got to have broadband, and cable uses VoIP, so it's really all
11 the same thing. It is not like there are all of these many
12 options. They are just in different -- you know, you have
13 different stamps on them, different owners. But it's really a
14 single thing.

15 And I think if you actually ask the people, if you
16 went out in your community and you asked them do you think we
17 have competition for your landline phone, most people are going
18 to say no, especially around Tallahassee. And when you look at
19 competition, I think of competition as being able to supply the
20 same services. And a lot of this new competition is wonderful.
21 You know, we really enjoy the new technology. We're looking
22 forward to what they are coming up with in the future and wait
23 for the next thing, and it's very wonderful. But a lot of
24 people either can't afford it or they are just not interested.

25 We have got lot of seniors, and I have to be careful

1 saying this, because Mr. Pasco (phonetic), who was a wonderful
2 advocate for seniors and AARP and passed recently, he reminded
3 me at one Commission meeting that seniors are just as into
4 technology as everybody else, and that's true for a lot of
5 folks. But there is still a certain percentage of people that
6 are not into that. They just want their landline phone that
7 they can use to call their family, they can call the hospital,
8 they can call the fire department, and they don't want all of
9 these other fancy things. That is something they depend on.

10 And it is also -- a lot of these other services have
11 limitations. I have to think because you have got the live
12 feed from the National Hurricane Center, I believe, running
13 outside, you know, this is a state where we have to deal with
14 these kind of hurricanes, tropical storms, and it's, you know,
15 it happens pretty frequently. We have been very lucky the last
16 couple of years, but we are seeing some of that again.

17 But the thing that I remember most about one of the
18 worst hurricanes that came through was the fact that you could
19 go down and trees were just flattened, you know, telephone
20 poles were flattened, cell phones were flattened. You know,
21 everything was down. The only thing that was still running
22 after that hurricane came through, and I think at the time it
23 was BellSouth providing service, the only thing still running
24 in some of these houses that were just in sticks was the
25 telephone. And we caution everybody when we start into

1 hurricane season, make sure you have a telephone that you can
2 just plug into the jack. And that's a vital part of our life
3 in Florida and in a lot of other places.

4 But focusing on Florida, this is important. And a
5 lot of these other companies are trying to do things, they are
6 putting batteries in, but, you know, in Tallahassee we were
7 without power for a week one time. Recently a lot of people
8 were without power for a week or more, and sometimes even
9 longer in south Florida where these hurricanes have gone
10 through. And those substitutes are not going to be competitive
11 as long as they have those, you know, restraints.

12 And, unfortunately, I'm afraid if we do away with all
13 the rules, it will be the death of landline telephones. You
14 know, you can't blame the telephone companies. They are
15 looking at the future. They are looking at what is going to
16 make the most profit for their shareholders. And to some
17 extent, I'm sure they feel like landline kind of holds them
18 back from doing some of those things and having to comply with
19 service quality, but it's vital to a lot of the Florida
20 citizens.

21 And they talk about all of these new options, but I
22 think Verizon, for instance, you know, they have these services
23 that they say are available, but I think less than, you know, a
24 small percentage of their customers have it, and it is probably
25 going to take years to build out their territory, and lot of it

1 is in rural area that is going to take even longer. So just
2 saying it's available doesn't mean it is really where customers
3 can go and get this product.

4 And we have to keep in mind how important landline
5 is. And the regulation is going to keep it important, it is
6 going to keep the companies providing a better quality of
7 service, and we'll get to that in a little bit. But it's very
8 artificial to say you have all of these other options and they
9 are available. Because just because they offer them doesn't
10 mean they are really available to a lot of people, and those
11 people are depending. Thank you.

12 **CHAIRMAN CARTER:** Thank you, Ms. Bradley.

13 Let me go -- Commissioner, let me go to Commissioner
14 McMurrian and then I will come back to you.

15 Commissioner McMurrian, you're recognized.

16 **COMMISSIONER MCMURRIAN:** Thank you, Mr. Chairman.

17 I was just going to say that -- and I do want to hear
18 about the quality of service from all the parties, too. But
19 with respect to the competition test, and I'm not saying that
20 anyone, you know, necessarily has to speak up because I want to
21 hear it, but I was hoping we would hear from each of the
22 parties about the competition test itself, and, you know, what
23 your concerns are with that.

24 But I did have one question for something Ms. Bradley
25 just said, and I wanted to make sure I heard you right. Did

1 you say if we do away with all the rules you think it would
2 lead to the death of the landline phone, or did I get that --
3 I'm just not sure. I was trying to write stuff down.

4 **MS. BRADLEY:** I think so, or certainly hasten it. I
5 mean, we will eventually be without landline. I mean, we have
6 kids that only have cell phones and rely on that. But I think
7 if you do away with the rules, companies are not going to have
8 the incentive to keep those up. They are not going to keep,
9 you know, putting the emphasis on that and the service quality
10 and a lot of people will get dissatisfied with that.

11 And, you know, people feel like if I'm without my
12 cell -- I mean, without my landline for weeks at a time, it's
13 essentially lost to them, especially when we are talking about
14 senior citizens and people on fixed incomes and this type
15 thing.

16 **COMMISSIONER MCMURRIAN:** Thank you.

17 I guess I was just sort of thinking out loud that
18 if -- I think if the companies thought it would be the death of
19 the landline phone, they wouldn't be asking to be relieved of
20 the rules. And I guess that's my thought, too, you know, if
21 there were -- you know, I don't know what is going to happen
22 with the rules and we are going to get into talking to that
23 more, but it just seems like that that is probably -- that
24 seems to be going, you know, a few steps beyond to me.

25 But, again, I appreciate your thoughts on that, and I

1 agree that there are some things that we definitely want the
2 landline phone to still be around for those customers that want
3 it. And I think that that is what the good result of this
4 competition has been, is that customers, you know, decide what
5 they want and what they think they need and especially with the
6 storm issues we have in Florida. So, thank you.

7 **CHAIRMAN CARTER:** Commissioner Argenziano.

8 **COMMISSIONER ARGENZIANO:** First, I would like to see
9 if Ms. Bradley wants to respond.

10 **MS. BRADLEY:** If I can respond briefly to that. You
11 know, like I say, we welcome competition and we understand that
12 there will be a day when this will all be a moot point. I just
13 think it is premature. And in response to what was said, you
14 know, we are looking at these factors and we are looking at the
15 people that really need it. And, you know, we just -- you
16 talked about the companies, but if you look at the compliance
17 levels and how that has continued to drop, it seems to indicate
18 they are not putting their emphasis on some of the service
19 quality and some of the other issues.

20 And if you apply such an artificial test to
21 competition to do away with the rules, then essentially that
22 compliance is going to decline. It has in other places, and it
23 will here, too. I mean, it already has even though you have
24 the rules. So I think those rules are going to continue to be
25 important.

1 **COMMISSIONER ARGENZIANO:** Mr. Chair.

2 **CHAIRMAN CARTER:** Commissioner Argenziano.

3 **COMMISSIONER ARGENZIANO:** A couple of things. First,
4 I think I would like to ask the companies a question and see
5 how they respond to the question. And the question is, do you
6 see that wireline is an exact substitute for wireless and VoIP?

7 **MR. GREER:** This is Stan Greer with AT&T Florida.

8 An exact substitute. They are alternatives, that is
9 the best I can tell you. The landline companies are rolling
10 out new services today that use the landlines, not
11 necessarily -- you know, AT&T has rolled out U-verse (phonetic)
12 in the Jacksonville area. So there are services that use those
13 landlines.

14 Are they an exact substitute? No, I don't believe
15 so, but it depends on what the customers are looking for. You
16 know, we try to manage the business based on our expectations
17 from our customers, because that is really what drives how we
18 provide service and what kind of things we roll out. So it is
19 important that we look at those avenues first. And wireless is
20 clearly a substitute for some people, because they may have,
21 you know, may not want broadband over a landline service. But
22 in today's world you can do about anything you want to on a
23 cell phone that you can't on a broadband landline for the most
24 part, except for maybe downloads and that kind of stuff.

25 But it really drives back to what the customer is

1 looking for. Is the customer looking for an answer the phone
2 in ten seconds? If they are, and that is what the market is
3 driving, then that is what the industry players will probably
4 roll out in order to win the customers. Because the bottom
5 line is keeping and gaining access to the customers that we
6 provide services to, because that is how we generate revenue
7 for the company. Without being able to roll out and entice
8 customers to take our service, we don't go anywhere. So that's
9 kind of my take.

10 **MS. CLARK:** Mr. Chairman, if I could respond and then
11 also ask Dr. Taylor to weigh in. I guess I need to ask a
12 little bit more about your question. Are you saying an exact
13 substitute in terms of technology, or an exact substitute in
14 terms of the services that the person is looking for? And I
15 would suggest to you that in many instances a wireless is an
16 exact substitute as you can see from the people cutting the
17 cord.

18 One of the things we didn't mention in our slides was
19 the fact that while you may have a wireline and a wireless, you
20 are making -- people are increasingly making their calls, both
21 local and long distance, using that wireless phone as opposed
22 to the wireline. So an exact substitute for what purposes?
23 And if I could let Dr. Taylor answer that.

24 **DR. TAYLOR:** Sure. I would just add one thought. If
25 a wireless company were to reduce service quality in some way

1 that's important to customers, ask yourself, would the demand
2 for wireless service go up or go down? If a wireline company
3 cuts its service quality, where do customers go? What would
4 they do?

5 The fact is, I believe, that wireless demand would go
6 up, and at least from an economic point of view that says that
7 from a customer's point of view they are economic substitutes.
8 They are not exact substitutes, but I think the relevant thing
9 here is if wireline prices go up or service quality goes down,
10 wireless carriers, wireless demand is there to punish the
11 carrier -- the wireline carrier that's doing that.

12 **COMMISSIONER ARGENZIANO:** I didn't hear the last -- I
13 didn't hear his last words.

14 **CHAIRMAN CARTER:** You didn't hear his last comment?

15 **COMMISSIONER ARGENZIANO:** Right.

16 **CHAIRMAN CARTER:** Dr. Taylor would you repeat your
17 last comment?

18 **DR. TAYLOR:** Yes. Let me just say it again. That if
19 wireline carriers reduce quality or raise price, wireless
20 service is there to punish them. I mean, to take customers
21 that -- for whom service quality in that dimension was
22 important or for whom price is important. And from an economic
23 point of view, that means they are substitutes.

24 **COMMISSIONER ARGENZIANO:** What about the 911
25 services, or the alarm system backups, or things like that?

1 How do you call them exact substitutes?

2 **DR. TAYLOR:** Again, I wouldn't call them exact. For
3 customers for whom that's very important, they will go with the
4 service which provides better service in that dimension. So if
5 you think wireless 911 is inferior, and you really need 911,
6 you will stay with wireline even though it doesn't do you much
7 good if you are out on the road.

8 **COMMISSIONER ARGENZIANO:** But at the same time, you
9 are saying that if the people don't like the quality of service
10 they have, they can go somewhere else and get it. And I'm
11 trying to say if it is not exactly the same service or doesn't
12 provide the same thing, maybe they can't go somewhere else and
13 get it.

14 **DR. TAYLOR:** Well, they can't go -- they may not be
15 able to go somewhere else and get the exact service. That is
16 not quite true in the sense that cable service and wireline
17 telephone service are awfully close. You can think of a few
18 differences, but, you know, they are both wireline. The only
19 difference I can think of is what happens when the electricity
20 goes out, and even that is not much of a difference for most
21 customers who are not as clever as Ms. Bradley and who don't
22 have an old-fashioned phone to plug in when the electricity is
23 out.

24 But by and large those are very close substitutes. I
25 agree with you there are no exact substitutes. There are no

1 exact substitutes in the rest of the world. Carrots aren't
2 substitutes for peas.

3 **COMMISSIONER ARGENZIANO:** And, Mr. Chair, one other
4 question for right now. I'm still having just a hard time, and
5 maybe, Dr. Taylor, since you seem to be the point man, maybe
6 you can tell me, for my purposes as simply as you can, how does
7 compliance of quality of service cost you?

8 **DR. TAYLOR:** Because it sometimes compels you to
9 provide higher quality and expensive service that customers
10 aren't willing to pay for. And if you charge them for it, they
11 will go someplace else.

12 My usual example is just if people really don't
13 insist on having the phone answered at the business office
14 within 30 seconds or whatever, if that is just not important to
15 them, but it is very expensive for the company to provide it,
16 then customers ultimately are going to go someplace where they
17 don't have to buy that service implicitly in what they pay for.

18 **COMMISSIONER ARGENZIANO:** Does that translate into if
19 I'm calling an operator of your company or directory assistance
20 of your company, that if they don't answer, and I have to hold
21 on for 20 minutes, that that's just because it cheaper not to
22 hire as many people to handle the calls?

23 **DR. TAYLOR:** Well, one, it is cheaper not to hire as
24 many people, but, two, the question is what people are willing
25 to pay for. I don't think anyone in the old days -- and I

1 can't see the room, but I think I am as old as anyone in the
2 room -- no one ever did a study that showed the cost/benefit
3 analysis of a 30-second answer time as opposed to a one minute,
4 a two minute, or a three minute. You know, this was all done
5 sort of seat of the pants in a monopoly environment. And we
6 are finding out in other areas and we are finding out in other
7 states what people are actually willing to pay for, because
8 none of this is free.

9 You know, if you say it is going to be 30-second
10 answer times, that's fine, but ultimately customers have to pay
11 for it. And if you are a consumer advocate, you should be very
12 concerned about that, whether customers are really willing to
13 pay for that or not.

14 **COMMISSIONER ARGENZIANO:** Well, I agree to a certain
15 extent. I also think -- Mr. Chairman, I'm sorry. I also think
16 that if you are a customer you have an expected -- somewhat of
17 an expectation to have service provided by a company that you
18 are paying.

19 **DR. TAYLOR:** That's true.

20 (Simultaneous conversation.)

21 **COMMISSIONER ARGENZIANO:** -- both sides of that, I
22 think.

23 Thank you, Mr. Chairman.

24 **CHAIRMAN CARTER:** Commissioners, let me do this
25 before I come back to Commissioner McMurrian.

1 Ms. Perry, do want to comment? You're recognized.

2 **MS. PERRY:** Thank you very much, Commissioner. I am
3 lucky enough to be around in this industry now for 34 years,
4 and I also have been elected by my employees across the state
5 to be around since the deregulation and to watch that
6 legislation go through an implementation in our state. So when
7 all of this came about, it was sold to the consumers at lesser
8 price for their service. It was not sold at lesser customer
9 service. It was not sold at doing away with oversight of the
10 bill to make sure their bill was correct. It did not do away
11 with any of that when the consumers pushed for competition in
12 the market here in Florida.

13 I know it has been said several times that
14 competition will be the one who sets the standard. And the
15 consumers right now under the local exchange company, they did
16 not agree to do away with customer service. And just to give
17 you an analogy of truth, you just had to ask just a few years
18 ago before cable competition was released in the state, you
19 just had to ask the people who call their cable company on
20 their break, their break at work, on their fifteen-minute
21 break, or their lunch hour to have somebody be able to answer
22 the phone in a certain amount of time, so you can get your
23 business done on that fifteen-minute break, maybe, or at least
24 talk to somebody and they say they will call you back.

25 But there is just no way -- if you are in the real

1 world in Florida -- and I travel the state, I heard the -- just
2 take the hurricane three years ago that we had in Broward
3 County. My neighbor was without phone service for a month and
4 that was a cable service. And he could not get anyone on the
5 phone to even help or listen to him in regards to it.

6 So to say that the consumers will move from place to
7 place or company to company, if we do away with the rules, then
8 sooner or later there will be no place that they will get
9 customer service. The rules were put in place because the
10 consumers in the state of Florida were demanding it of the
11 monopoly. And you took action to put these rules into place
12 for the consumers because they asked for them of the monopoly.

13 Now, we are opening up to competition. We are
14 opening up to people that have no rules to put a streamline --
15 I think that is what we are looking at right now is the
16 streamlined test for competition. I think there is things
17 within these rules that maybe need to be lessened, but there is
18 a lot of things within some of the rules that need more
19 discussion, that need some of the consumers here to discuss
20 what's going on.

21 But to say that competition will take care of it, and
22 the customers aren't looking for customer service, just ask
23 that person on their lunch hour who can't get in touch with
24 their bank, or their insurance company, or who spent three days
25 trying to get to talk to a real person in regards to whatever

1 problem they are having with -- not necessarily, I'm just
2 giving a generic -- whatever problem they are having with their
3 bill or whatever they need to discuss. I wasn't trying to pick
4 on any of the companies. I was just trying to give examples.

5 And I truly believe that the citizens did not ask to
6 give up the quality of service that they have. They were told
7 they would get -- the money that they pay for their service,
8 and truly in long distance it has come down, and to call
9 wireless the same as wireline service -- and I love my wireless
10 phone. Since 1990 I have had my wireless phone. So I'm not
11 going to at all talk against a wireless service.

12 However, to say that a wireline is like a wireless
13 service -- the majority of the people I know, they have
14 wireless services, their kids have wireless services, but they
15 have a wireline at home. The reduction in the wirelines is
16 people have gone from a phone line and a fax line and they have
17 reduced it to just the phone line that they can use for a fax
18 line because they have their wireless phone.

19 It's kind of crazy, because you go to different areas
20 in the state of Florida, and if that tower is not there, you
21 have -- like Okeechobee I was in a couple of weeks ago, I had
22 no wireline service for the entire weekend I was there. The
23 great doctor on the phone, he talked about New England
24 selling -- Verizon selling off their -- some of their services.
25 Yes, they sold off their rural services so they wouldn't have

1 to provide wireline service to their rural customers. And the
2 communication workers also staved that off in Virginia.
3 Luckily that didn't go through in Virginia. We worked real
4 hard to stop that from happening to the rural customers in New
5 England. Unfortunately, it sounds like from what someone said
6 we lost that fight.

7 So I just want to say that to say competition will
8 take care of it and people will just move to other companies
9 and other companies and other companies, I mean, economically
10 is that a good thing that they just keep moving from company to
11 company, and does the bill catch up with them, and are we
12 providing -- you know, what kind of quality of service do we
13 want here in the state of Florida. And to have a simplified
14 test -- we are not speaking against a simplified test because
15 there are some things in the regulation that could be lessened
16 on the companies, but to do away with everything that's in our
17 packet here in the simplified test I don't feel is -- my
18 members don't feel is in the good interest of the consumers in
19 the state of Florida.

20 **CHAIRMAN CARTER:** Thank you, Ms. Perry.

21 Commissioner McMurrian.

22 **COMMISSIONER MCMURRIAN:** Thank you. There was
23 something else Commissioner -- sorry, Ms. Bradley said that was
24 a point that I wanted to go back to, and I wanted to ask
25 someone I guess on this side. She talked about how we do the

1 count, and I think she was talking about VoIP and broadband and
2 that some of them were really a single thing. And I had
3 confusion about that point, too. And I went back to
4 Dr. Taylor's Slide 66, and it talks about the test defines
5 local service access alternative as wireline, wireless,
6 broadband and cable. And then he talked about it allowed other
7 approved technologies.

8 I want to understand better how VoIP fits in and
9 address that concern that she brought up, because I want to
10 make sure, because I know the test is three alternatives. So
11 we have those four listed there, but how does VoIP fit in? I
12 know that it is provided through broadband sometimes and maybe
13 other times not. If you all could help me understand how you
14 define those alternatives a little bit.

15 **MR. GREER:** Commissioner, this is Stan Greer with
16 AT&T Florida. There's two types of VoIP. VoIP that has to be
17 used with a broadband, and then there is a VoIP that
18 essentially the cable companies provide, Comcast and those kind
19 of folks that is not over-the-top VoIP. The over-the-top is
20 where they have to have the broadband connection. So there are
21 two types. They are not the same.

22 I think we have actually had even proceedings in some
23 of the MDU cases prior that discuss that in a little more
24 detail. So those two competitors are different types of folks.
25 That is why the way the test is set up is that broadband is

1 counted because anybody on over-the-top VoIP can use a
2 broadband connection to provide telephone service.

3 **COMMISSIONER MCMURRIAN:** A follow-up on that. So
4 would VoIP -- if you had the other kind of VoIP, would it count
5 as a separate alternative?

6 **MR. GREER:** The way the test is set up is that, for
7 instance, Vonage is an over-the-top VoIP, I believe. They
8 would count as -- the broadband lines would count as one.
9 Anybody over that is -- you know, it is counted based on the
10 broadband line. Comcast would be counted differently because
11 they provide facility-based VoIP service.

12 **COMMISSIONER MCMURRIAN:** Okay. So you could
13 conceivably count Comcast as an example as a VoIP -- well, they
14 use a VoIP, but it's a facilities-based VoIP.

15 **MR. GREER:** Yes.

16 **COMMISSIONER MCMURRIAN:** And then count a Vonage type
17 as an over-the-top?

18 **MR. GREER:** As one of the umpteen, however many there
19 are over-the-top VoIP providers that use broadband connections.

20 **COMMISSIONER MCMURRIAN:** Now, could you -- I'm sorry,
21 Chairman. Could you count more than one over-the-top provider,
22 or would it just be broadband would be counted and then
23 recognizing that those over-the-top VoIP --

24 **MR. GREER:** Broadband would be counted as one.

25 **COMMISSIONER MCMURRIAN:** As one?

1 **MR. GREER:** Yes. And however many over the top there
2 is you would just count broadband as the one.

3 **COMMISSIONER MCMURRIAN:** As the one, okay. Thank
4 you.

5 **CHAIRMAN CARTER:** Mr. Beck.

6 **MR. BECK:** Commissioner, thank you. I have learned
7 when you have an opportunity to speak you ought to take it.

8 I have a few comments about the competitive
9 alternatives. And from our view there is no question that
10 competition is bringing in enormous benefits to the customers
11 of the state and that many customers are finding alternatives
12 and competitors. But one of the questions I think that is
13 being glossed over a bit is whether those competitive
14 alternatives are being offered at comparable rates, terms, and
15 conditions. And this Commission's report to the Legislature on
16 competition, which is grounded in Section 364.383, Florida
17 Statutes, asks the Commission to report on the availability of
18 functionally equivalent services at comparable rates, terms,
19 and conditions. And that is one of the things I think the
20 incumbent companies have rather glossed over in the
21 alternatives they have presented.

22 You saw Verizon's -- one of the slides that Verizon
23 gave this morning showed competitive alternatives by Knology.
24 And, for example, one of them said, Knology digital cable phone
25 Internet, regular price \$112; get this bundle for 12 months for

1 new customers only at \$92. Well, obviously, this is
2 competition for the very high-end customer; and if you are one
3 of them, you know, this is an alternative. But it is not a
4 comparable rate that you would look at compared to local
5 service.

6 Many of the competitive alternatives also require a
7 broadband connection. So when you see the price for a Vonage,
8 you have to have a broadband first that you have to pay for in
9 order to get that. That is not comparable to local phone
10 service.

11 The Commission's report on competition this year had
12 a statistic in there that I thought was very interesting. It
13 is that 63.3 percent of the wireline subscribers in the state
14 also subscribe to broadband. That also means that 40 percent
15 of the wireline subscribers are not taking broadband at all.
16 So if you look to the VoIP alternatives, 40 percent of the
17 customers aren't even taking broadband there.

18 On the terms, many of the alternatives don't have
19 similar terms to the local. One of the most obvious terms that
20 differs is usage. You know, local service by the incumbents
21 has unlimited usage. Whereas many of the alternatives, such as
22 cellular service, generally have charges per minute. If you
23 take one of their unlimited plans, you're talking \$100 a month
24 right off the top there.

25 He talked about rates. Local phone service in the

1 area of 10 to \$13 plus a SLC compared to what the companies are
2 showing are very high priced alternatives. The terms of many
3 of the competitive alternatives aren't unlimited. And the
4 conditions, the comparative conditions, 911 is an example. The
5 911 you get over a landline is, in many people's view, is
6 superior to what you can get over a cell phone. It's a concern
7 for people.

8 Many of the alternatives ask for contracts. You
9 know, they ask you to sign up for 12 months, and you will have
10 a cancellation fee. That is typical with the cell phone
11 companies that may have some of these packages, you have to
12 sign up for 12 months. That's not a comparable condition to a
13 local phone service.

14 And, of course, comparable conditions will also
15 include quality, because the quality of VoIP is simply not the
16 same as you get -- or should be getting with your landline
17 service. So I think, at least in our view, that is one of the
18 things you ought to be looking at is whether these alternatives
19 are being offered at comparable rates, terms, and conditions.

20 **CHAIRMAN CARTER:** Thank you, Mr. Beck.

21 Mr. Twomey.

22 I'll come back to you, Ms. Kaufman.

23 **MS. KAUFMAN:** Thank you, Mr. Chairman.

24 **CHAIRMAN CARTER:** Mr. Twomey, you're recognized, sir.

25 **MR. TWOMEY:** Mr. Chairman, Mike Twomey for AARP.

1 Thank you.

2 Primarily I want to adopt all of the comments you
3 heard from Ms. Bradley who, as you know, works for the chief
4 law enforcement of the state of Florida, the Attorney General,
5 as well as the comments that you just heard from Mr. Beck.
6 Particularly those on comparability. And, of course, Mr. Beck
7 works for Mr. J.R. Kelly, who is sitting behind him, who is the
8 statutory representative of all the consumers of regulated
9 utility services in the state.

10 The bulk of my comments today I'll save for
11 Section 2, where I will tell you that it is AARP's view that
12 you owe it to the consumers of this state to keep the quality
13 of service rules irrespective of whether you consider that the
14 companies pass this test.

15 And as to the test, let's think about this for a
16 minute. These mostly huge telecommunications corporations
17 designed a test that meets their needs. Should it be any
18 wonder that they think they can pass it?

19 Now, in considering the test, and principally the
20 comments you just heard from Mr. Beck, I would like you all to
21 go forward and assume that there are a good number of
22 telephone, telecommunications consumers in the state, maybe the
23 40 percent that Mr. Beck alluded to a moment ago, that would
24 like to have access to unlimited local calling of a quality
25 equal to that that is often being provided by their landline

1 companies, and that they would like to have that unlimited
2 service, quality service, at rates that are comparable to what
3 they are paying their ILEC currently.

4 And as suggested by Mr. Beck, it is unlikely that you
5 are going to find the so-called alternatives that provide the
6 unlimited local service at the same quality and at the same or
7 comparable prices. As he pointed out, most of the other
8 alternatives where you might get what is considered unlimited
9 local service, like Happy Face, or Happy Jack, or whatever it
10 was, Vonage, T-Mobile, you have got to have an existing
11 broadband service in order to get those in the first place.
12 And as in most cases in the state of Florida, I think with the
13 exception of BellSouth or AT&T now, you can't get stand-alone
14 broadband DSL without taking basic telephone service, as well.
15 So I would ask you to look and look hard to find whether people
16 are going to be able to -- in terms of alternatives, are going
17 to be able to get the same service at the same price with
18 comparable terms and conditions.

19 As far as the -- I'm not sure I understand where the
20 companies are going when they show you all the loss of access
21 lines and why that means something. As Ms. Perry told you, a
22 lot of that loss of access lines is due to folks getting rid
23 of -- individuals or families getting rid of multiple lines
24 they had before. In my own experience, which I think it is
25 okay that I can speak in this environment, I at one time had

1 three Embarq lines and paid the local charges. I used one of
2 them for telephone service, one of them is a fax only, and one
3 of them I used for dial-up Internet, because I couldn't do
4 anything else.

5 Now I just have one line with Embarq. And something
6 I would ask you to consider, because I don't use fax anymore to
7 speak of. I can if I have to, but we do PDFs and we have
8 e-mail attachments and that kind of thing, and I have broadband
9 service, a high level DSL from Embarq which works just fine,
10 and the basic phone service. Interestingly, and I would ask
11 you to consider this in all the talk about loss of access
12 lines, Embarq takes more revenue from me now with the services
13 I have from them with one line than I used to pay when I had
14 three.

15 Mr. Greer tried to suggest to you, I think, that the
16 rules should be done away with because they are old. Well, so
17 am I. The Chairman is not as old as I am, but he has got a
18 little bit of gray showing, and he is not ready to go either.

19 **COMMISSIONER ARGENZIANO:** Don't even point to me,
20 Mr. Twomey.

21 **MR. TWOMEY:** I'm not pointing to anybody else up
22 there. The point being that, you know, if you go into any
23 court in the United States, hopefully, and you said the
24 precedent cited by the opposition shouldn't be considered
25 because it is old would get you laughed out of court, if not

1 booted, because a lot of times there are strong reasons for
2 having old legal precedence. And we would suggest to you that
3 there are strong reasons for maintaining the rules.

4 **CHAIRMAN CARTER:** Thank you.

5 **MR. TWOMEY:** Last point, one last point.

6 **CHAIRMAN CARTER:** One more.

7 **MR. TWOMEY:** Commissioner Argenziano asked the
8 question, well, what about the ten-second answer time, or the
9 30-second answer time. And if you listened closely to Stan
10 Greer and Dean Kurtz, I heard them essentially saying, well, we
11 don't know what it should be exactly, but it ought to be longer
12 than what the rules require currently. And as Mr. Kurtz said,
13 he said just let the market do its thing. And you have to
14 conclude from that that if what they want to do is the market
15 will bring it down. There will be a reduced quality of
16 service.

17 So that is what I wanted to say about the test. We
18 don't think they meet the test, but we don't think the test
19 fundamentally is a good fundamental question with which to
20 decide whether rules should be repealed or not.

21 Thank you.

22 **CHAIRMAN CARTER:** Thank you, Mr. Twomey.

23 Let me go to Ms. Kaufman first, because she has been
24 patiently waiting, and I'll come back. I promise you I will
25 come back.

1 Ms. Kaufman, you're recognized.

2 **MS. KAUFMAN:** Thank you, Mr. Chairman. On behalf of
3 CompSouth, I wanted to say, first of all, that we look forward
4 to getting into the test itself as Commissioner McMurrian had
5 talked about a little earlier. But one thing I want to talk
6 about for a moment on Dr. Taylor's slide is something that the
7 speakers before me have referenced, and that has to do with the
8 test has this sort of two-thirds criteria in it. And I think
9 maybe what we have all been talking about is what happens to
10 the other one-third of the customers.

11 I might be stepping a little bit outside my CompSouth
12 hat, but as Mr. Twomey did, I feel I can maybe take some
13 liberty. My parents, as opposed to Ms. Clark's kids, are very
14 upset when they had an automated answering system. And I hope
15 they wouldn't mind me saying they were somewhat confounded by
16 it and what they have to do to get to a live person.

17 My parents don't have broadband. They don't have
18 anything other than just your single residential line. And for
19 a lot of the reasons that Mr. Beck and Ms. Bradley talked
20 about, would probably fall into the one-third category here.
21 So I think generally for reasons that have been stated and lots
22 of others that Mr. Gillan is going talk about in some detail,
23 this test doesn't do what you are being told it does. And
24 beyond that, as I think Ms. Perry mentioned, if there are
25 issues with some of the rules, some of the rules need to be

1 revised, some of the standards need to be changed, as I think
2 Mr. Greer and Mr. Kurtz might have mentioned, then we suggest
3 to you that we look at those rules.

4 If the ten-second answer time needs to be modified,
5 let's look at it. Let's get to the substance of the rules that
6 there are issues with, and let's not overlay on top of these
7 rules a test that doesn't do what it's supposed to do and is
8 going to be detrimental, I think, to a lot of the consumers in
9 Florida. As I said, we will go into that in some detail when
10 we get to our Part 1 presentation.

11 **CHAIRMAN CARTER:** Thank you, Ms. Kaufman.

12 Mr. McCabe and then Mr. Greer.

13 **MR. MCCABE:** Thank you. Just a couple of quick
14 comments. From what I'm hearing, we have made a serious,
15 serious mistake because competition is a bad thing. But what
16 we are seeing is customers are leaving our service and taking
17 other providers. So we can't turn the clock back. I defy
18 anybody to develop a business model that shows that providing
19 poor customer service, poor networks is going to be a
20 profitable thing. That is not what we are in the business for.

21 We have taken steps to do a lot of things in terms of
22 trying to make sure we are providing good customer service to
23 our customers. We are in a transition. When we talk about the
24 death of the landline, that's what we are trying to prevent.
25 We are in a transition from moving from a landline company to a

1 broadband company. And if we choose not to follow that road,
2 we will not be here in the future. And the idea that we can
3 ignore the high-end customers, that we need to make sure that
4 we maintain some type of a structure to make sure that those
5 customers that only want an R-1 service are going to still be
6 able to get that, it's not going to be provided by the landline
7 provider. We will be out of business.

8 The idea in terms of what other people, you know, the
9 niche market. You know, AARP indicating that, you know, you
10 don't have equivalent services. Well, AARP is in the cell
11 phone business today. You know, they can go ahead and provide
12 that service to customers. That's a new service that they have
13 just rolled out.

14 I guarantee you they are not going to do that because
15 they will lose money. Whether we like it or not, we are in the
16 business of making money. And what we are looking at from my
17 standpoint -- I go back and look five years ago when we were in
18 budget season. We would be looking at forecasts, what our
19 revenue is going to be. We're forecasting increases in revenue
20 from our access revenues, increasing access lines.

21 Today when we do our budgets, we are looking at how
22 much revenue we are going to be missing next year. I've got
23 declining access rates -- I mean, I have got declining access
24 lines, I've got declining access revenues, I've got declining
25 total revenues. I am restricted from increasing my local rates

1 regardless of whether there is any regulatory constraints or
2 not.

3 I remember listening to unless we repeal some of the
4 legislation that went into effect a couple of years ago, that
5 local rates are going to be \$60. I'm showing you, as for my
6 competitors, 29.99 will get you unlimited local, unlimited long
7 distance. That's an awfully difficult thing for me to compete
8 with, especially in light of the fact that the VoIP provider
9 doesn't even have to pay access rates. He gets to use my
10 network and not pay me for it. So it is a completely different
11 world today than it was ten years ago.

12 Thank you.

13 **CHAIRMAN CARTER:** Thank you.

14 Mr. Greer.

15 **MR. GREER:** Yes, Commissioner, just a couple of
16 comments. Mr. Beck mentioned rates, terms, and conditions.
17 You know, I'm still waiting for Embarq to send me my \$15 rate
18 for local service. But there is more to that than just what a
19 basic service is. You have long distance generally rolled into
20 a residential line. You have features that the customer may
21 purchase. The bottom line is that the customers have the
22 choice to make those decisions with various carriers. As Mr.
23 McCabe indicated, you know, you can go to Comcast and get
24 broadband, TV, and cable for \$100. Well, you know, that's a
25 very, very attractive rate because it is run into bundles.

1 It is not just basic service anymore; it is more than
2 that. And that is the way the customers are looking at it.
3 They look at it as a bundle of services and what is the best
4 price they can get. I understand rates, terms, and conditions,
5 but our chief competitor is not the broadband over-the-top VoIP
6 providers, it's Comcast in some of our major areas that
7 provides service and get the revenues associated with that
8 service from us.

9 You know, today, we have several service rules in the
10 Commission's rules. AT&T Florida has a service guarantee plan.
11 Our commitment to our customers and the move to that was that
12 we will make a commitment to our customer to have it fixed in
13 24 hours or however long the service guarantee plan requires.
14 Answer the phone in a certain amount of time.

15 Our commitment is to the customer. If we miss that
16 commitment, then we pay them an amount, whatever that amount
17 may be. Our focus should be more to what the customers want
18 and the service quality that they are looking for. If this
19 Commission runs into an issue with any company, at least on the
20 ILEC side on service, they clearly, at least in my layman's
21 interpretation, clearly have the ability to take a look at that
22 and address the issue that may come up with service.

23 **CHAIRMAN CARTER:** Okay. Let me just say that --
24 excuse me. Let me just say this. I think that -- and I'm glad
25 to have a frank discussion. Frank finally came to the room.

1 He must have sent his twin brother, Fred, earlier. But I
2 appreciate the frank discussion. Because, you know, when you
3 tiptoe on egg shells, people don't really say what is on their
4 minds, so we appreciate that.

5 Secondly, is that our purpose here today is to go
6 through the rule and see if there may be some areas that are
7 arcane and obsolete that we can dispose of that does not impact
8 negatively on the customers. There may be some rules that are
9 arcane or obsolete that would allow the companies to be more
10 efficient and economical as they compete in a competitive
11 environment. So the good thing about it is that everything is
12 on the table and nothing is off the table.

13 So with that, I'm going to give our court reporter a
14 break, and we will come back, but we do need to just kind of --
15 I'm glad that we kind of -- we have stopped feeling each other
16 out, now we can go on and talk. All right. We are in recess.

17 (Recess.)

18 **CHAIRMAN CARTER:** We are back on the record.

19 Let me do this to kind of bring everybody back in for
20 a landing here, is that what we just had, was we had a
21 presentation from the ILECs. And what I would like to do is
22 before we get into Part 2 is are there any questions, concerns,
23 or whatsoever based upon what we have heard? Because we are
24 going to -- when we move into Part 2, that is where we are
25 going to go with the actual text of the rule moving forward.

1 Does anyone from either of the parties?

2 Ms. Kaufman, you're recognized.

3 **MS. KAUFMAN:** Chairman Carter, I think that CompSouth
4 has a presentation that they would like to make on Part 1.

5 **CHAIRMAN CARTER:** Well, then, how about making it
6 now?

7 **MS. KAUFMAN:** With your indulgence, yes.

8 **CHAIRMAN CARTER:** One second, please.

9 **MS. MILLER:** We just have -- I have one question to
10 ask of the ILECs.

11 **CHAIRMAN CARTER:** You're recognized, and then after
12 that we will come back to the bench.

13 **MS. MILLER:** Thank you.

14 **CHAIRMAN CARTER:** Hang on a second. Let's do this.
15 Commissioner Skop, you're recognized, sir.

16 **COMMISSIONER SKOP:** Thank you, Mr. Chair.

17 I just had a quick follow-up question to a comment
18 that Mr. Twomey made if he would be available.

19 **MR. TWOMEY:** Yes, sir.

20 **COMMISSIONER SKOP:** In respect to some of the
21 comments that you made, were you suggesting that modifying the
22 quality of service requirements for ILECs would result in
23 diminished efforts, or level of efforts by ILECs to maintain
24 the quality of service at existing levels?

25 **MR. TWOMEY:** Yes, sir. I think that's necessarily

1 implicit in what they are asking to do. I mean, if they don't
2 want to meet the 30-second answer requirement, then they
3 obviously want it to be a longer duration. And not only does
4 it reduce the impetus for them to meet those requirements, one
5 could argue that given that's the only regulatory bar we have
6 for all providers of telecommunications services, whether they
7 are comparable in our view or not, it would reduce the bar for
8 everyone.

9 **COMMISSIONER SKOP:** And could taking such action by
10 the Commission perhaps have the unintended consequence of
11 impacting consumers throughout Florida to the extent that
12 quality of service as a whole might decline or suffer as a
13 result of effectively lowering the bar by removing the ILEC
14 quality of service benchmark?

15 **MR. TWOMEY:** I think it is a possibility, and it is a
16 possibility that I would suggest that you should be concerned
17 about.

18 **COMMISSIONER SKOP:** Thank you.

19 And then to Ms. Clark briefly. I fully recognize and
20 appreciate the countervailing consideration regarding the
21 competitive disadvantage argument, but one of the -- as I have
22 heard it presented is that the ILECs are experiencing less of a
23 take rate in terms of landline services. And I think one of
24 the benefits or pros of having landline service that I have
25 heard advanced during my time at the Commission has been the

1 quality of service. That, you know, the landline is tried and
2 true, it works when a hurricane comes. When the power goes
3 off, you have your landline.

4 So in a sense, and just as a brief response or
5 rebuttal, would not removing the quality of service requirement
6 effectively get rid of that selling point that would encourage
7 consumers to opt for landline over and above going with other
8 providers?

9 **MS. CLARK:** Absolutely not. I mean, if I can just
10 sort of sum it up. What you see by the slides and what you
11 have in your own report is customers are voting with their
12 feet. They are not finding -- they are finding other
13 substitutes for the service that they value more.

14 And getting back to something either Stan or Tom
15 McCabe said is no business goes into business providing a low
16 quality of service. They know they have got to deliver high
17 quality of service to keep their customers. And I think if you
18 look at the wireless marketing that they have done, they have
19 constantly given in their advisement, I guess it is Verizon,
20 and particularly it talks about the value -- the quality of
21 their network. They are selling quality.

22 So what you have in your rules is, in a sense,
23 arbitrary quality of service rules that were adopted in a
24 different environment. They do not make sense in a competitive
25 environment.

1 **COMMISSIONER SKOP:** Thank you.

2 **CHAIRMAN CARTER:** Thank you.

3 Commissioners, I'm going to go to staff, unless there
4 are any further questions from the bench.

5 Staff, you're recognized.

6 **MS. MILLER:** Thank you.

7 I wanted to go back to the issue about substitution
8 of service. And there is a new FCC order that came out on
9 Qwest, and it relates to forbearance. But I wanted to mention
10 what the FCC said in the order in their competition analysis
11 and see if there are any comments on it.

12 What they said was that mobile wireless service and
13 wireline telephone service are not perfect substitutes, and
14 they said the majority of households do not view wireline and
15 wireless services to be direct substitutes, and most households
16 purchase mobile wireless telephony service in addition to a
17 customer's existing wireline service.

18 And then they went on to say that for their
19 competition analysis for this purpose, which was on the
20 forbearance, that they limited the inclusion of wireless
21 services in the competition analysis only to where a household
22 had elected to forgo wireline telephone service rather than use
23 mobile wireless services as a complement. So they said it's
24 only where a household has forgone wireline that we see it as
25 truly a direct substitute. And I just wondered if there were

1 any comments in response to that analysis.

2 **MS. CLARK:** Maybe I can lead off on that. I think
3 that does bring into focus what we are trying to do here. A
4 lot of the discussion on the test we propose has focused on
5 using it for broader purposes. Our focus here is for
6 streamlining regulation, that is why it is offered. And it is
7 in that context it makes sense to apply the test.

8 I would have to understand a little bit more why that
9 conclusion was made in the forbearance. I suspect it's because
10 it is for a different purpose that an analogy cannot be made to
11 what we are trying to do here.

12 **MR. MAILHOT:** Staff has a couple of additional
13 questions.

14 **CHAIRMAN CARTER:** Mr. McCabe, you had a response?

15 **MR. MCCABE:** Yes. Let me just make one comment.

16 The CTIA did an interesting study, and I don't have a
17 copy of the study with me, so I'm going off of memory here.
18 But it was something like 36 to 40 percent of consumers today
19 believe that wireless service is an important part of their
20 day-to-day activities. I don't think you would find that same
21 percentage when you talk about wireline.

22 I'm sure that many of us here have left the house
23 only to turn around and drive back home because we forgot our
24 cell phone. So whether it's a direct substitute, you know, I
25 guess that is probably questionable. But it has become a very

1 important part of your day-to-day activities.

2 The other item, one of the things that you are
3 starting to see, at least what I have been reading, is that in
4 today's economy customers are having to make a choice because
5 they have both a cell phone and a wireline phone. And with
6 today's economy they are trying to figure out ways that they
7 can cut back, and so what do they do? They get rid of their
8 wireline phone in order to keep the wireless phone, because it
9 provides them that mobility that they are looking for. And so,
10 you know, I do think it probably plays a lot greater role as a
11 substitute than we are willing to give it credit.

12 **CHAIRMAN CARTER:** Thank you.

13 Staff.

14 **MR. MAILHOT:** In the proposed rule a company is
15 required to have at least or a minimum of two alternative
16 providers, I believe. Is the company -- if the company, say
17 AT&T or Verizon, if they have an affiliated wireless provider,
18 is that affiliated wireless provider considered an alternative?

19 **MS. CLARK:** Yes, it is. And I would ask Dr. Taylor
20 to chime in on why that is appropriate.

21 **DR. TAYLOR:** Sure. Take the AT&T example. AT&T
22 Wireless competes in Florida with half a dozen or more other
23 wireless providers, some of whom have wireline affiliates, like
24 Verizon, some of whom, like T-Mobile, don't. But the
25 conditions of that competition are determined within the

1 wireless world, and there is nothing that AT&T Wireless can do
2 that could take advantage of or unfairly -- take unfair
3 competitive advantage of from the fact that it both owned a
4 wireless affiliate and a wireline affiliate just because the
5 competition is different in the wireline arena. They have to
6 compete with people who both have and do not have wireline
7 affiliates.

8 **MR. MAILHOT:** Another question in the proposed rule.
9 There are several places where it mentions access lines and
10 households and everything. In every case are we referring to
11 residential access lines only in all the measurements and
12 calculations and everything?

13 **MS. CLARK:** That's correct.

14 **DR. TAYLOR:** Yes, I think.

15 **MS. CLARK:** I think it should be maybe pointed out at
16 this time that some of these rules, particularly on quality of
17 service, and there has already been, in effect, a lessening of
18 the rules as it relates to business.

19 **MR. MAILHOT:** Under the proposed rule as it's
20 structured right now, would all of the companies in Florida
21 qualify immediately for this relief?

22 **MS. CLARK:** I think we have answered that in the way
23 we think so, but we don't know for sure. And, of course, each
24 company would have to come to the Commission with the facts
25 that demonstrate that they do meet the test.

1 **MR. MAILHOT:** This is a more specific question. On
2 Page 5 of your presentation, it shows --

3 **MS. CLARK:** I'm sorry, maybe I should make it clear
4 that I'm familiar with those companies who are part of this
5 petition.

6 **MR. MAILHOT:** On Page 5 of the presentation --

7 **CHAIRMAN CARTER:** Which presentation is that?

8 **MR. MAILHOT:** -- you mentioned the access line loss
9 that has occurred in the last six or seven years. Do you have
10 any idea how many of those access lines would be like second or
11 third access lines versus a loss of customers? I mean, do you
12 all keep track of that whatsoever?

13 **MR. GREER:** We may. I don't know right off the top
14 of my head. I would have to go look and see.

15 **MS. CLARK:** You know, I would point out that there
16 are -- you know, the percentage of those who have cut the cord,
17 and, also, I think it's probably conservative. Well, the other
18 thing that needs to be kept in mind is this decrease in access
19 lines has occurred when the population has increased.

20 **MR. MAILHOT:** On Page 63 of your presentation, you
21 mention that all of this can be based on readily verifiable
22 data. I'll be honest, historically staff has found it
23 extremely difficult to get this kind of data on exactly where,
24 you know, how many households are passed by cable and, you
25 known, where wireless operations exist and where they have good

1 signal strength and everything. Do you all have something that
2 you view as a good source of data to support this?

3 **MS. CLARK:** As I indicated, that is something that is
4 going to have to be produced and brought before you as these
5 petitions are put forward. But it's my understanding that
6 there is a lot of data out there in the public arena that can
7 be used as providing a source to do that, and I would ask Dr.
8 Taylor to chime in on this point.

9 **DR. TAYLOR:** Yes. Both cable data and wireless data
10 are available in geographic databases that let you map the
11 areas that have access to cable and to wireless service. We do
12 those. They are publicly available, and I think you
13 probably -- someone has to buy them, but it's straightforward.
14 We have used them in deregulatory dockets across the country.

15 **MS. SALAK:** I just have a couple of questions based
16 on some of the conversation today. You mentioned that some of
17 our rules weren't based on studies and were somewhat arbitrary,
18 and that you were looking at to what the consumer wanted and
19 expected. So I'm curious as to have you done studies on what
20 the appropriate answer time might be or what quality of service
21 levels they expect?

22 **MS. CLARK:** This is Susan. If I could sort of hold
23 that question, because as we get to Item 2 I think we will have
24 some information on experiences that may be relevant to that, I
25 think. But the point to be made is I think they are arbitrary,

1 and what you are seeing in the market is people are not valuing
2 those things because they are moving to other carriers.

3 **MS. SALAK:** Mr. McCabe or Mr. Greer, one of the two
4 of you mentioned that everybody just wants bundles now. And
5 I'm curious of your remaining customers how many are really
6 just looking for local service from you, what percentage?

7 **MR. GREER:** How many are just stand-alone residential
8 customers with no features and all of that kind of stuff?

9 **MS. SALAK:** Well, really, they don't have Internet,
10 they don't have anything else beyond what would be bundled as a
11 telephone package.

12 **MR. GREER:** I don't know that percentage. I would
13 have to see if we have got that kind of data.

14 **CHAIRMAN CARTER:** Mr. McCabe.

15 **MS. SALAK:** Mr. McCabe, I do know you did make a
16 comment --

17 **CHAIRMAN CARTER:** Let Mr. McCabe answer.

18 **MS. SALAK:** Excuse me.

19 **CHAIRMAN CARTER:** Sorry.

20 **MR. MCCABE:** I don't have the exact information, but
21 we are having a lot of our customers moving to bundles. Our
22 DSL offering in Quincy has a very strong take rate, and we are
23 looking at 8,700 access lines. We have probably a 20 or
24 30 percent take rate for our DSL right now, which we think is
25 pretty strong. So there is a lot of our customers looking for

1 that. We are also providing Dish Network and things of that
2 nature, and we are having a strong take from those services.

3 **CHAIRMAN CARTER:** On the ones that just have phone,
4 voicemail, call waiting, I think that is the nature of what she
5 is saying, but just basic service. Any idea on what that would
6 be?

7 **MR. MCCABE:** I don't.

8 **MR. GREER:** I don't either, Commissioner.

9 **MS. SALAK:** I just have one more question, Mr.
10 McCabe, if you are willing to share. You mentioned earlier
11 that you are moving from wireline -- you are getting rid of
12 wireline, basically. Can you tell me what your time frame is
13 for that?

14 **MR. MCCABE:** No, no, no, we are not getting rid of
15 wireline.

16 **MS. SALAK:** Well, that's what I heard you say.

17 **MR. MCCABE:** No, we're not -- what I was saying is
18 that we are transitioning from being a wireline company. I
19 think if you go to any conference these days that is attended
20 by rural carriers the story that you are going to hear is that
21 you either change or you die. And if we are not a broadband
22 provider, we will not be in business in the future.

23 That is what we truly believe and that is our focus,
24 to make sure that -- you know, we have to make choices, whether
25 it's having answer times in 30 seconds or having broadband

1 deployed to our customers so that we can keep that customer.
2 Especially keep that high-end customer from leaving our network
3 to go to our competitor. And that is what we are really
4 talking about in terms of those choices.

5 **MS. SALAK:** So let me just ask of everyone in
6 general, is it your business plan that you will keep wireline
7 traditional service in play over the next ten years?

8 **MR. GREER:** This is Stan Greer with AT&T Florida.
9 When you say traditional, are we going to continue to provide
10 wireline type services, absolutely, because that is what our
11 new services are using, you know, as I mentioned earlier, the
12 U-verse. Does that mean that they are going to be handled in
13 exactly the same fashion? Probably the answer is no, as the
14 technology develops and migrates to a different type of
15 technology, such as VoIP.

16 **MS. WILLIS:** This is Bettye with Windstream. I would
17 agree with what Stan says. Are we going to continue to offer
18 voice services? Yes, we'll offer voice services as part of the
19 suite of services that we offer. Again, the technology may
20 change, but we will still offer a voice product.

21 **CHAIRMAN CARTER:** Mr. McCabe?

22 **MR. MCCABE:** I'm good.

23 **CHAIRMAN CARTER:** Huh?

24 **MR. MCCABE:** I'm good.

25 **CHAIRMAN CARTER:** On her question. I was just

1 getting --

2 **MR. MCCABE:** Oh, okay. Same as what Bettye
3 mentioned. I mean, we will be transitioning. I mean, we are
4 trying to add, you know, Voice-over-IP into our network just
5 like everybody else. It's a low cost technology and that is
6 the direction that everybody is moving, but we will be
7 offering, you know, voice service.

8 **CHAIRMAN CARTER:** You're recognized.

9 **MR. KURTZ:** I just concur with everything said. I
10 think what you will see is we all have wireline in the business
11 plan. What comes down in the future is the pipe coming into
12 the home and the customer determining what they do with the
13 pipe. Do they want it for wireline? Do they want it for DSL?
14 What do they want it for? But there is nothing in the business
15 plan that does away with wireline voice service that I have
16 been made privy to.

17 **CHAIRMAN CARTER:** Did all of the companies get an
18 opportunity to respond to her question?

19 **MS. CLARK:** Mr. Chairman, I would just ask if
20 Dr. Taylor could chime in on this point, because I think in
21 his -- either in his report or in the attachment we made to our
22 filing, he made an analogy to the continued regulation of
23 railroads and how that had an impact on their viability and
24 their ability to provide service because they continued to be
25 regulated when those entities against which they had to compete

1 were not. And I would ask the Doctor to chime in on that.

2 **CHAIRMAN CARTER:** Let me ask before we go to the
3 doctor, let me hear from the companies, and the Doctor can bat
4 clean-up on this question.

5 **MS. CLARK:** Okay.

6 **MR. O'ROARK:** De O'Roark with Verizon. I really
7 don't have anything to add to what the others have said.
8 Verizon will be providing some form of wireline service going
9 forward, we hope. And we hope we will be around and healthy
10 ten years from now. Obviously, technology is moving along fast
11 and what format it's going to take we are going to have to see.

12 **CHAIRMAN CARTER:** Okay. Did we get all the
13 companies? Because, if not, we are going to hear from Dr.
14 Taylor.

15 Dr. Taylor, you are recognized, sir.

16 **DR. TAYLOR:** Thank you. Just very briefly, the asset
17 that the wireline telephone companies have ultimately is its
18 wireline into the house. And, of course, Verizon and AT&T are
19 modifying that for the future. What is going to be provided
20 over that wireline, I couldn't tell you in ten years. I mean,
21 I am shocked at the last ten years. So in the next ten years
22 I'm sure it will be different, as well.

23 Nonetheless, certainly no one is proposing not to
24 provide voice service in whatever technology and form that
25 might take. The analogy to surface transport is an obvious one

1 that what people care about is moving goods and services from
2 point to point. Just like for telephone service, you care
3 about moving your voice from my mouth to your ear. And the way
4 that gets done customers are often moderately indifferent
5 about. And in regulatory lore the regulation of surface
6 transport was asymmetric in the same way it is asymmetric in
7 telecommunications. And we don't really have railroads and we
8 don't have canals and barges the way that we might have had had
9 the world grown up in an unregulated environment. That's all.

10 **CHAIRMAN CARTER:** Thank you.

11 Staff, anything further?

12 Ms. Kaufman.

13 You said no, right?

14 Ms. Kaufman, you're recognized.

15 **MS. KAUFMAN:** Thank you very much, Mr. Chairman.

16 Vicki Kaufman on behalf of the Competitive Carriers of the
17 South.

18 And I think you have had a preview of some of the
19 remarks that Mr. Gillan is going to make. And we want to turn
20 back to the actual test that is being proposed to you, I guess
21 it's this afternoon. You have heard some interesting
22 statistics, maybe you have seen some amusing ads, but I think
23 what we need to do is take a hard look at what is being
24 proposed in this test and see if it does what it is being held
25 out to do. And Mr. Gillan is going to go into that with our

1 presentation.

2 **CHAIRMAN CARTER:** Okay.

3 **MR. GILLAN:** Good afternoon. I almost feel like I
4 should stand, because what I'm going to try and talk about is
5 going to sound so different than what you have been presented
6 so far. And my threshold point, and it is really kind of the
7 point of our entire presentation, even precedes the question of
8 how would you design a market test. And it's a much more
9 simple question. Why are you designing a market test?

10 What you have in front of you are some rules that the
11 ILECs maintain are no longer appropriate given the current
12 market, or given current conditions. Okay. Now, we are going
13 to debate about what those conditions are, because I think on
14 one hand you have gotten an incredibly exaggerated presentation
15 about the form and the type and the level of competition that
16 these companies are experiencing and its consequences.

17 But before we even get to the question of whether or
18 not their description of the market is exaggerated, I want to
19 come back to that first question again. Why do you need a
20 market test? If there are rules that you should change, and
21 you are in a rulemaking to change them, then all you need to do
22 is look at each of these rules, listen to people's explanation
23 as to why those rules should go away or why those rules should
24 be retained, okay? And then make a judgment in your own mind
25 based on those arguments, including arguments of exaggerated

1 competition by the ILECs, as to whether or not those rules
2 should be retained.

3 But why would you ever take the bizarre intermediate
4 step of designing the rule that will tell you what other rules
5 you want to have? How it is that you need a rule to supplant
6 your own judgment in a rulemaking? All you need to do in this
7 proceeding is what you are actually doing and going to do the
8 rest of today. Look at the rules that are being proposed to be
9 changed. Listen to people's discussion about why they should
10 be changed or why they should be retained, and then apply
11 judgment.

12 Now, if you decide that there is enough competition,
13 not that a market is competitive, and I will come back to that,
14 but if you decide that there is just enough entry and things
15 going on that it's time to change a rule, change it and write
16 an order that says conditions have changed and because of that,
17 we feel that this rule is no longer necessary.

18 But what they are asking you to do is to do the most
19 dangerous thing you can do as a Commission, and that is create
20 a false Potemkin rule about the degree of competition in the
21 market that is completely arbitrary, completely fictitious, and
22 then produce out of this agency a finding that a market is
23 competitive.

24 And that finding that a market is competitive is an
25 incredibly loaded term. And that is our number one objection

1 to this process. We don't object -- if I can figure this out.
2 We don't object to streamlining regulation. Quite frankly, we
3 have a question that we think you need to have answered and
4 that is how much of this regulation really even applies to the
5 networks that these companies are building to compete with the
6 new networks that other companies are building? You saw the
7 wonderful TV ad about Verizon is now competing with cable with
8 its FiOS network. And I'm sure AT&T could dig up an equally
9 amusing ad about U-verse is now competing with cable.

10 Question: Do these companies -- are these companies'
11 position that all the Commission's rules that apply to their
12 old networks apply to these new networks? Because, candidly,
13 if their new networks are already unregulated and treated the
14 same as cable's networks, then you don't have an asymmetric
15 regulation problem to solve to begin with, but I will let you
16 ask that question.

17 We are not opposed to streamlining. We have been
18 working cooperatively to basically get out of the way of the
19 ILECs having an opportunity to eliminate rules, or at least
20 have a fair and open debate between themselves and people who
21 represent consumers as to whether some of these rules are
22 needed in today's environment. But we want that debate to
23 happen in front of you with your judgment applied, not this
24 market test.

25 Why do we hate it? Because it is unnecessary, it is

1 misleading, and it is hopelessly flawed. And we can spend the
2 next several hours, which I will try to condense into the next
3 several minutes explaining to you why this test is both
4 unnecessary and so hopelessly misleading and flawed that you
5 should abandon any hope of remedying it. But before I get to
6 that, I still want to go back to my first point.

7 You don't need this market test. You are the test.
8 You are the judgment as to whether these rules are needed. You
9 don't need an artificial rule that you design to tell you what
10 you should do. Just go ahead and do it.

11 All right. Why do we know it is unnecessary? The
12 point I keep making. You can directly look at each one of
13 these rules and have the debate directly. Do you want to keep
14 quality of service rules or do you want to get rid of them?
15 Can you take evidence in that process? Absolutely. Will there
16 be disputes over it? Certainly. But we already know that this
17 process that they created, this idea that you use an
18 unnecessary rule to tell what rules unnecessary is already
19 demonstrably unneeded because four of the rules that they first
20 came in here saying the market test should tell you whether to
21 get rid of or not, you already got rid of a couple of weeks ago
22 in the consent agenda.

23 If the market test provide some use, how could you
24 have gotten rid of those rules already without ever applying
25 it? You didn't need it because you did what you needed to do

1 already. You looked at the rule, you decided it needed to be
2 retained, and you got rid of it. There was no need for a
3 market test.

4 Why is it misleading? It's misleading deliberately,
5 I believe, but perhaps just because it is poorly drafted,
6 because it claims to have determined when a market is
7 competitive when as they keep trying to point out, oh, we don't
8 want to use it for that purpose. We only want to use it to
9 judge whether these other rules are needed. It doesn't even
10 claim to determine whether a company should be subjected to
11 streamlined regulation. It's claiming to say a market is
12 competitive, and yet when you look at it, as they point out, we
13 have flexibly designed the definition of a market to be
14 whatever the ILEC wants it to be. Well, what is the ILEC going
15 to want it to be? It is going to want it to be whatever gets
16 the rule passed.

17 Well, why would you have a rule that the ILEC designs
18 to make sure they passed so you can pretend that it told you
19 something useful? That's why I called it a Potemkin rule. It
20 is going to give you the illusion that there is a competitive
21 market, just like those Potemkin Villages gave the illusion
22 that peasants were living above substandard living, because it
23 is designed to tell you that there is a village there. It's
24 designed to tell you that there is competition whether or not
25 there is.

1 Are we the only ones who thinks it is hopelessly
2 flawed? Quite frankly, we will use -- one of the few times I
3 have had a lot of agreement with Dr. Taylor is his own
4 description of it. It doesn't have strange things like market
5 power. Well, I submit to you that's not a positive attribute.
6 If you are going find a market is competitive, then let's all
7 think about what the ILEC would do with a finding that a market
8 is competitive. You better be concerned about whether there's
9 market power.

10 Is it useful? There's nothing magic or mystical
11 about it, even under their own description. The two-thirds
12 that is the foundation of this test is a number between half
13 and one, an algebraically correct statement, but so what?

14 More flaws. As I pointed out, no criteria to use to
15 define what a geographic market is. It's not like a market
16 test where you sit down and say what's the geographic market,
17 what's the product. All of that is gone. How inconvenient
18 that would be to do an actual analysis. Is assumes blithely, I
19 believe, that conditions in the residential market can be used
20 to determine conditions in the business market. Everything
21 that they have showed you so far, everything they have talked
22 to you about is that if you look at the residential market you
23 can deregulate everything else because, my gosh, if the
24 residential market is competitive then everything else must be
25 competitive.

1 Well, upon which tablet was that written? I mean, if
2 you try to compete in the business market for any product, you
3 know what you are going to discover? Businesses aren't like
4 consumers. And in the telecommunication business, business
5 products are very different than residential products. We all
6 know the cable companies are providing phone service to their
7 customers. All right. Now, how many of you think that most
8 businesses have cable TV to the desktop? Just as a practical
9 matter, cable companies are residential-oriented companies.
10 Their networks go to residences; their marketing is designed
11 for residences; their customer support is designed for
12 residences.

13 The notion that standard -- I need a Fortune 500
14 company that is still viable. The notion that a cable company
15 can suddenly show up and compete for Delta Airlines because it
16 has a bunch of HBO subscribers is absurd. The business
17 marketplace is inherently more complex. It requires completely
18 different customer support. It has a completely different
19 geographic profile. I can sell you home phone service if I
20 build a network to your house, right? For me to serve Delta
21 Airlines, if I'm a cable company, I've got to be in a hell of a
22 lot of cities in America. That national footprint is going to
23 matter.

24 Cable companies aren't organized to have a national
25 footprint in major markets. Comcast might have one city, Time

1 Warner has a different city, Cox has a different city. They
2 are not organized like traditional phone companies who built up
3 geographic footprints regional and then worked out
4 international and other national relationships. Cable
5 companies have very geographic precise footprints, and that is
6 an enormous barrier for their ability to succeed in the
7 enterprise marketplace, because enterprise customers have
8 multiple locations. But somehow we have this test that tells
9 you if a residential customer likes its cable company or has
10 wireless service you can assume that business customers have
11 competitive choices.

12 Finally, it assumes that wireless service and
13 broadband service are equivalent to basic voice. I want to
14 address both of those a little bit separately, because there
15 has been an awful lot of discussion about it so far this
16 morning.

17 One, let's take about wireless service. Now, we all
18 know that wireless service is important to people. Mr. McCabe
19 is absolutely correct. We all have wireless phones. What he
20 didn't point out, however, is think about what that means.
21 There are basically today a wireless service for every
22 subscriber over the age of 10 in the United States. It is a
23 service that has effectively reached 100 percent penetration.
24 Now, if it was, in fact, a substitute for wireline phone
25 service and 100 percent of the people had it, what do you think

1 would have happened to these wireline companies already?

2 Sure, they have lost 10, 12, 15 percent of households
3 don't have wireline phone service. But, my gosh, you are
4 talking about a product that has been out in the marketplace
5 now for 20 years or more, has 100 percent penetration. The
6 fact that there is some spillover in the 10 to 15 percent range
7 shouldn't be surprising, or cause for alarm, or cause for
8 celebration, or cause for a whole bunch of other conclusions.

9 Secondly, let's go back to that business item again.
10 How many businesses do you know are going to get rid of their
11 reliable, clear, always working wireline phone service so that
12 they can have a wireless phone? Sure, salesmen are going to
13 have it, but can you imagine calling your insurance company and
14 the agent is on a wireless phone, and say, "Can you hear me
15 now?" All right.

16 Third point. Look at how this company is advertised,
17 the wireless companies. The point was made that Verizon touts
18 the quality of its network. Yes, but it doesn't tout the
19 quality of its network compared to the local telephone company.
20 It touts the quality of its wireless network compared to other
21 wireless companies.

22 Think about their ad campaigns. What's AT&T's basic
23 slogan? Fewest dropped calls. Now, which of these wireline
24 companies would run an ad campaign with the phrase fewest
25 dropped calls? Come to me because my service will drop you

1 less frequently than their service will drop you. That's a
2 quality issue.

3 What is Verizon's tag line? Well, I used it already,
4 because it is the most popular saying in the wireless
5 community, "Can you hear me now?" Well, what does that tell
6 you? I mean, that indicates the quality has been so suspect
7 for so long that you can actually make fun of it and sell your
8 product.

9 Are these great phones? Yes. Is there some
10 substitution? Absolutely. Is it something you should
11 consider? Yes. But should you really have any kind of test,
12 some mathematical test that says the presence of a wireless
13 provider is the same and equal to the presence of some wireline
14 provider given the widely different qualities involved?

15 The fourth point. You look into this 10 or 15
16 percent, 16 percent, whatever it is of households that no
17 longer have a wireline phone, and the primary thing you will
18 see is they heavily concentrated among the young. Now, does it
19 mean it is only college students that are doing it? No. But
20 it's a figure that is incredibly distorted by the influence of
21 the fact that young people don't have the same need for a
22 wireline phone that they do for a wireless phone.

23 I mean, let's face it, we were all young once. Mr.
24 Twomey apparently still is. My daughter doesn't have a
25 wireline phone. A wireline phone doesn't have the same value

1 to her because it only goes one place and she is never there.
2 A wireless phone doesn't have those characteristics, but does
3 it really tell you that it should be used.

4 Finally, broadband service. This notion that any
5 broadband connection is somehow a voice service simply because
6 it is possible to provide voice service on the Internet. I
7 want to thank Stan Greer for saying what everyone else was
8 blurring. There are two different types of services that are
9 both sometimes called VoIP, and I'm going to quit calling them
10 both VoIP because it is hopelessly confused when you do it that
11 way.

12 There is a VoIP, Voice over the Internet Protocol,
13 that is like Vonage, that basically means, hey, we are going to
14 try and provide phone service over the Internet. A similar but
15 not identical technology is deployed by cable companies,
16 competitive local exchange carriers, every single ILEC at this
17 table that is a managed Internet protocol network that is
18 designed to handle a variety of different traffic types and
19 assign them the quality of service they need.

20 Now, as a practical matter, when they showed you all
21 their statistics about VoIP, they tried to add them together
22 because they are trying to make it sound like the growth that
23 the managed packet entrants are achieving, primarily cable
24 companies in the residential market, is somehow equivalent to
25 the fact that Vonage can give you phone service over the

1 Internet. But as a practical matter, in the real world the
2 over the top play is pretty trivial. Vonage has, what, two and
3 a half million lines in America. I think that rounds out to
4 something under half a percent, okay? It's rounding error.

5 AT&T entered that market and tried to sell an over
6 the top voice product. They called it Call Vantage (phonetic).
7 They have recently announced that they are abandoning it. It
8 has got no future; it has got no real market significance.

9 So the mere fact that there is a broadband thing out
10 there, a broadband connection, doesn't mean anything about
11 whether people have voice choices, because the type of voice
12 product you get over the top is -- it's the closest thing to a
13 toy we have in this industry. But is there real growth with IP
14 technology? Absolutely. Is it going to be the new technology
15 that everyone provides and deploys? Yes. Are the ILECs
16 already deploying it? Unquestionably. Do CLECs and cable?
17 Yes. You have to look at it.

18 With all those flaws, where do we come back to on
19 this market test? And, again, let me emphasize I'm not telling
20 you not to listen to the competitive story. I'm telling you
21 don't adopt a mathematical rule that somehow should be a
22 substitute for your judgment. Because the mathematical rule
23 that they designed that is designed for all of them to pass on
24 day one would, in effect, declare the entire state competitive
25 even if a third of the state have no -- a third of the

1 residences have no alternative at all, if none of the
2 businesses have any alternatives, pretends that Verizon
3 Wireless and AT&T Wireless are competitors to Verizon and AT&T.

4 Now, I'll agree with Dr. Taylor that Verizon and AT&T
5 when they designed their wireless products are looking out at
6 the services of other wireless providers. But the reason I am
7 agreeing with him is that the wireless market is not the same
8 as the wireline market, and that is why you shouldn't be
9 counting them at all anyway.

10 Moreover, the future of this industry is for those
11 two technologies to try and converge so that your wireless
12 phone and your phone in your home tie to sort of wireline
13 broadband technology seamlessly operate as you come and go.
14 So, you know, I think all you have to do is look at their
15 relative penetration rates of Verizon Wireless and AT&T
16 Wireless in region and out of region to see that there is a lot
17 of synergy in being affiliated with that local exchange
18 carrier.

19 The bottom line is they designed a test to tell you,
20 hey, if there is a cable company that overlaps two-thirds of
21 your households, then you should be declared competitive for
22 all your services, and that is just a falsehood.

23 Now, I have one other set of information to share
24 with you before I pass the baton to my friend, some
25 supplemental slides I created this morning after I had a chance

1 to see the ILEC slides to address some of their points. The
2 first are drawn from an ex parte that TDS filed at the FCC.
3 Because while Mr. McCabe here emphasized the fact that he is an
4 ILEC here in Florida, his company is actually more diverse than
5 that, and his company also operates as a competitive local
6 exchange carrier in the upper midwest. And there was recent
7 debate about the degree of retail competition in the Qwest
8 region. And I have tried to highlight in yellow the things
9 that his company presented to the FCC down at the bottom.

10 They were reinforcing for the FCC the conclusion that
11 I emphasized earlier, these over the top VoIP providers don't
12 belong in any kind of competitive discussion. Whether they
13 will even be here in a couple of years is questionable. They
14 are not the same thing as the provision of service over managed
15 packet networks, which I will acknowledge, and, in fact,
16 strongly endorse you do need to be aware of. They emphasized
17 for the FCC there is little basis for determining that mobile
18 wireless services are part of the relevant market for wireline
19 services. This wireless phone thing isn't really a substitute
20 for the wireline phone.

21 Actually, I will also point out to you that if you
22 were to look at Verizon is in the process of acquiring Alltel,
23 they have to do a merger analysis. The merger analysis that
24 they are doing at the FCC defines the product market for the
25 FCC to look at, and it's defined as mobile wireless service.

1 They don't include wireline in it at all. There is no
2 recognition or claim that wireline should be in the same
3 product market as wireless.

4 This entire idea that if you show the Commission that
5 they are losing some retail switched access lines that you can
6 draw conclusions about competition, the FCC has rejected it,
7 TDS has encouraged the FCC to reject it, and I'll explain a
8 little bit of that more in a moment.

9 And then, finally, as I pointed out earlier, cable is
10 simply not a serious player in the enterprise market. This
11 fallacy that you can look at residential competition however
12 you look at it and then extend it to some conclusions about the
13 business market just totally ignores the fact that businesses
14 are different than residential consumers.

15 The last point. I want to talk about this
16 woe-is-me-my-access-lines-are-declining argument that has been
17 so prevalent here. Local telephone companies of all stripes
18 sell more than one type of product. One division that the FCC
19 collects data on is the difference between switched products,
20 kind of like regular phone service, special access lines. When
21 you add them together, that is the measure of how much are they
22 selling out in the marketplace, how big is their network.

23 Now, we could bring in any oil company executive and
24 have him sit down and have him give us a slide presentation
25 that shows that his sale of leaded gasoline has been declining

1 steadily since the 1970s and is virtually gone. But that
2 wouldn't tell us that oil companies are broke, right, because
3 they sell unleaded gas, and other types of gas, and all that we
4 really saw was in the marketplace one type of gas replaced
5 another type of gas.

6 Are these companies seeing reductions in residential
7 access lines? Yes. There's a lot of reasons for that. Second
8 lines are disappearing. You know, there used to be a time when
9 you would buy a special phone line for your teenager. Well, no
10 one is going to do that now because we all know that if there
11 is one person who doesn't need a wireline phone but needs a
12 wireless phone, it's a teenager. With quotes around the word
13 need.

14 What we have seen in this marketplace is a very
15 fundamental shift in the importance of nonswitched capacity.
16 And if you go back to like 1996/1997 on this chart, well, you
17 will see -- this is for BellSouth, but I will show it for the
18 other companies where the data was available. Switched access
19 lines were their bread and butter. Special was relatively
20 small. Over the years you will see that switched is declining,
21 but it is being way more than offset by sales of special and
22 other types of capacity. This is just in one look. Their
23 network is getting bigger and more robust and selling more
24 services each and every year, but they only showed you the one
25 that is going down. You have got to think about why they did

1 it that say. This is Verizon. Similar line count when you
2 include all of their access lines. And here is Embarq.

3 Now, I don't want to be accused of exaggerating in
4 the same way that I'm accusing my friends. They are facing
5 some residential competition primarily from cable. There are
6 some young people and some others that don't want their
7 wireline service anymore, but are going with a wireless phone.

8 There are certainly some rules that need to be
9 eliminated, and we have supported a bunch of them, and you have
10 already eliminated them. But the question that you need to
11 answer really, realistically, is going through each of these
12 rules coming up, why would you keep it, why would you get rid
13 of it, what are the hard facts about it?

14 I don't want to see you shortcut that process by
15 wasting your time trying to create a rule that tells you what
16 you should do. It's a fool's errand. There is no magic rule
17 that will tell you -- that is a substitute for your independent
18 judgment.

19 It is going to be a tough call for some of these
20 rules, but I don't see any hope for the process other than sit
21 down, listen to their story, recognize that some of this is
22 just totally overblown. Some of it maybe you want to get rid
23 of, some of it maybe you want to keep. And there was a lot of
24 discussion earlier about these quality of service rules. My
25 clients take no position on it. I will point out, however,

1 that there was an interesting claim that somehow if you reduce
2 quality of service rules on a carrier, and I will use AT&T as
3 the example here because I have facts for AT&T and I don't have
4 them for the other companies, and they may not apply, and I
5 don't want to imply that they do. But if you get rid of
6 quality of service rules for AT&T, and let's even assume for a
7 moment that that causes AT&T's costs to go down, other than
8 AT&T's shareholders, who else is going to benefit?

9 Last year in this state, AT&T's return on investment
10 was 30 percent. Thirty percent. Roughly three times what its
11 return would be allowed to happen if it were still regulated.
12 If you move their costs a little bit up or down -- I understand
13 that the profit might move up and down a little bit, but where
14 is the magic mechanism that causes those benefits to go into
15 consumers' pockets instead of their shareholders? I think
16 those are some of the questions you have to ask, too.

17 And we go to the one last thing, and I'll hand it
18 back to my compatriot.

19 **MS. KAUFMAN:** This is our final slide, and this is
20 sort of a summary of what Mr. Gillan has said. This is our
21 recommendation to you. This has been our view and our position
22 in this docket since we began. As he said, we think all the
23 parties ought to work toward looking at each rule individually,
24 seeing what rules need to be changed, repealed, amended. And
25 as he said, you have already done that and we have already

1 reached consensus and brought it to you at the last agenda
2 conference where a number of rules were repealed or amended.

3 Are we going to be able to do that on every single
4 rule? No. There is going to be some issues on some rules. I
5 think you are going to hear about them in Part Two. You have
6 already heard about them in the quality of service. So let's
7 you all, the interested parties, take a look at those rules and
8 decide what ought to happen with them. What you shouldn't do
9 is take what is essentially the ILECs' position, which would be
10 their position if we were going through a traditional
11 evidentiary hearing and we all had to do our prehearing
12 statements and take our positions. That would be the ILECs'
13 position. You shouldn't take their possession and adopt it in
14 a rule.

15 You need to look at the evidence on the rules that
16 are disputed and figure out what to do with each substantive
17 rule as opposed to taking the proposed rule that Mr. Gillan has
18 gone into some detail in regard to as to why we think it is
19 totally flawed, and imposing that on rules that are already on
20 your books. Let's just get to the meat of the rules that are
21 in controversy, hear what the folks have to say, and make your
22 best judgment in regard to what should happen to any particular
23 rule. That is the course that we would advise you to take, and
24 we think that is the appropriate way to proceed in a rulemaking
25 docket. Thank you.

1 **CHAIRMAN CARTER:** Thank you.

2 Mr. Konuch.

3 **MR. KONUCH:** Good afternoon, Mr. Chairman and
4 Commissioners. I'm Dave Konuch from the Florida Cable and
5 Telecommunications Association, and I'm very glad to be
6 following Ms. Kaufman and Mr. Gillan, because I agree with what
7 they said.

8 Often to get the right answer you have to ask the
9 right questions. And in this case, the question should not be
10 whether competition exists or it does not in certain markets,
11 the correct question is if competition exists, what effect does
12 that have on the ILECs' proposals and what effect will that
13 have on consumers? And I think we have heard -- we have seen a
14 lot of ads and a lot of statistics about what competition may
15 be out there, but the key point for all of us to understand is
16 what is the connection between that competition and the
17 particular proposals that are at issue here and the specific
18 relief that is sought by the ILECs.

19 And Item 1 on that relief is this so-called
20 competitive test. Now, when this proposal first came out there
21 were dozens of specific rules that the ILECs wanted to modify
22 or repeal. It took a long time for me to get through all of
23 those rules and determine what the significance of repealing
24 them might be. When you go through all of those rules, what I
25 was struck by is that there are really two of them that are the

1 most important. And there are a few modifications here and
2 there to specific rules that I think we would like to see, but
3 basically our basic concern is which of these proposals will
4 effect the ability of consumers to seamlessly transition
5 between providers? In other words, which of these rules might
6 effect our ability to provide service and compete with the
7 ILECs. And the rules that we focused on, number one, is the
8 competitive test.

9 The competitive test, it takes away the discretion of
10 the Commission to really look at individual rules. And a lot
11 of the particular rules would be needed whether competition
12 existed or not. And we'll be addressing a few of those this
13 afternoon.

14 Our number one is the PC freeze rules. Basically,
15 anything that could affect the transition between one provider
16 and another. As to the competitive test itself, I agree with
17 Mr. Gillan and Ms. Kaufman, it's completely unnecessary. It's
18 possible to look at each of these particular rules, all 70 or
19 so of them, and determine on their merits whether those rules
20 are needed or not, and there are procedures already in place to
21 enable the PSC to do that. You don't have to adopt a rule to
22 determine whether other rules are necessary or not, and you
23 shouldn't do that. Rather, each rule proposal should be
24 considered on its own merits and a waiver determination made.

25 The competitive test, it basically can lead to

1 illogical results because the presence or absence of
2 competition should not lead to the repeal of rules designed to
3 safeguard competition, such as the PC freeze rule that we are
4 going talk about this afternoon.

5 I also believe that adopting a rule to get rid of
6 other rules would be invalid as a matter of law. I don't
7 believe that there is enough room in the statute to adopt a
8 rule to get rid of other rules. There is room in the statute
9 to look at the rules one-by-one and decide on their own merits
10 whether they should apply or not, but there is no legal
11 authority as a technical legal matter to support adopting a
12 rule that would then automatically get rid of all of these
13 other rules.

14 Again, as Mr. Gillan, I think, very adroitly already
15 discussed, the competitive test does not offer a meaningful
16 measure of competition, because among other things it permits
17 the use of affiliates in the determination of whether or not
18 someone is a competitor, and it allows you to basically define
19 the market any way you want, the geographic market. So that
20 makes it not a meaningful measure of competition.

21 And then probably most importantly is that once this
22 competitive test is in place, it could be used in the future to
23 remove rules and basically remove the PSC's discretion to look
24 at particular rules one-by-one. And I really think that is
25 what the PSC needs to do. Each of these rules should be looked

1 at and determined whether it's still needed on its own merits.
2 And with that I will conclude my presentation.

3 **CHAIRMAN CARTER:** Thank you.

4 Commissioners, I think this is a good breaking point.
5 And it just dawned on me, I didn't tell you this morning about
6 lunch or anything like that. I do think the staff needs a
7 break, and so do you. And we only have one court reporter
8 today, and she's charging on like a trooper there. Let's do
9 this, I always throw -- hang on a second. Give me a second.

10 (Pause.)

11 **CHAIRMAN CARTER:** We will come back at 2:15.

12 **MS. CLARK:** Mr. Chairman.

13 **CHAIRMAN CARTER:** Yes, ma'am.

14 **MS. CLARK:** Could I indicate to Dr. Taylor he can
15 drop off at this point and we'll give him a call as to the
16 desirability of having him call in again once we pick up?

17 **CHAIRMAN CARTER:** Yes. I think that we have had most
18 of the discussion that we are going to have on the test this
19 morning, unless I missed something.

20 **COMMISSIONER MCMURRIAN:** I have a few, but can wait
21 until after the break. That's fine.

22 **CHAIRMAN CARTER:** Yes, ask him to come back after
23 lunch. We still have a couple of questions. We will go to
24 bench from that, okay?

25 **MS. CLARK:** Thank you.

1 **DR. TAYLOR:** I will be here. If you call me, I'll
2 answer. If you don't, I won't.

3 **MS. CLARK:** Thank you, Dr. Taylor.

4 (Lunch recess.)

5 **CHAIRMAN CARTER:** We are back on the record. And as
6 we get started and before we get started, I was just about to
7 recognize Commissioner McMurrin for some questions.
8 Commissioner McMurrin, you're recognized.

9 **COMMISSIONER McMURRIAN:** Thank you, Chairman. And I
10 guess I'll direct it to Mr. Gillan, although I had some of this
11 jotted down earlier and I was going to talk to Mr. Twomey and
12 Mr. Beck about it, so if they want to give input too. And if
13 anyone else wants to jump in.

14 I guess I'll start off with saying I'm not sure what
15 I think about the competition test itself yet, and I know we'll
16 have some more time to think about that and all before we make
17 any kind of decision. But I guess just to put some of it in
18 context and sort of share with you all what I'm, what I'm
19 thinking is, you know, I agree that there's a lot of
20 competition out there. I think we all agree about that. I
21 think we also all agree that competitors don't have to comply
22 with the same rules that the ILECs do. I think we've all
23 talked about that and I think that's again something we can all
24 agree with.

25 And also it's probably no secret, many of you know

1 that I have kind of strong feelings about some of these subject
2 areas and that I always have in the back of my mind that
3 regulation is a substitute for competition and that it was put
4 in place to protect customers from monopolies. And, again,
5 that's just sort of to share with you my train of thought.

6 And I certainly don't mean to be -- I realize after I
7 had a discussion with Ms. Bradley this morning that I might
8 have been a bit confrontational and I don't intend to be. I'm
9 just trying to share with you my thoughts and get some
10 feedback, and this may seem that same way.

11 I wanted to talk a lot about the comparability issue.
12 And, again, it first came up with Mr. Beck and Mr. Twomey. And
13 then, Mr. Gillan, I think you hit on it a lot too about how the
14 services weren't equivalent. Let me get my breath a minute. I
15 ran down the stairs late.

16 We've talked about this a lot before. We've talked
17 about it in some of the carrier of last resort cases, we've
18 talked about it in Internal Affairs when we took up the
19 competition test, and I think a lot of you have heard me say a
20 lot about wireless and it may not be an exact substitute and
21 the services may not be equal. At the same time, I think that
22 perhaps it's sort of in the eyes of the consumer what's a
23 substitute to them, and I think that's where we come in with
24 the 15 to 20 percent that may have cut the cord. Maybe to them
25 it was enough of a substitute or had some other kind of

1 attribute which, of course, would be mobility that might help
2 make up for something lacking that it doesn't have compared to
3 wireline. And I guess that's sort of where my question lies is
4 with respect to some of the discussion about that they're not
5 equal. With respect to wireless in particular -- I was trying
6 to get back to my notes, whether or not -- I'm sorry, Chairman.
7 I'm trying to get my thoughts together.

8 **CHAIRMAN CARTER:** Take your time.

9 **COMMISSIONER McMURRIAN:** Whether or not with respect
10 to wire -- I mean, I guess what are considered substitutes for,
11 for wireline service? Do you think that anything is considered
12 a substitute or is it just, is the point just that it's not
13 exactly equal? And do substitutes need to be exactly equal to
14 say that we no longer have to regulate, you know, one of those
15 services?

16 **MR. GILLAN:** This is a perfect illustration about why
17 I don't think you should waste your time on a, quote, market
18 test because the answer to your question depends entirely on
19 what rule are you looking at and what decision you're trying to
20 make.

21 For instance, if the rule has something to do with
22 network quality, well, I don't think anyone would agree that
23 wireless service is a great quality of service check on
24 wireline networks. I mean, the technologies are significant
25 enough, different enough that wireless service is always going

1 to have a quality profile in terms of voice quality and
2 reliability that's lower than what you can reasonably expect a
3 wireline network to provide for you.

4 So if what you're looking at is whether to get rid of
5 a, of a particular rule that has to do with network service
6 quality, then my answer to you is, my gosh, wireless is not
7 going to -- you should not expect the existence of wireless to
8 protect customers against the degradation in wireline network
9 quality because there's already such a disparity between the
10 two types of technologies.

11 If you were looking at a rule, which they don't have
12 in front of you today, about pricing where you're going to let
13 price go up for basic local service, I think as a practical
14 matter you would see that wireline prices can go up and be
15 profitable to an incumbent because while some customers might
16 get rid of their wireline phone and go to wireless, as a
17 practical matter not enough of them would do it to cause the
18 price increase to not be profitable. And, you know, you can
19 see the proof of that because there's a whole bunch of places
20 where ILECs have been given pricing flexibility and they raise
21 their price, which is why they wanted the pricing flexibility.
22 So, you know, those type of rules, I tell you now, they're not
23 the same.

24 Now if it's a rule about how quickly you answer, you
25 know, you can get an operator at the, at a business office and

1 for residential service, you know, maybe the existence of
2 wireless service for that type of rule is enough for you to get
3 rid of it. But to me that's why you have to look at the rule,
4 see what it's trying to accomplish, and then look around and
5 say, all right, can I get rid of this rule? And in some of
6 those instances the fact that there's wireless out there might
7 be enough and in some of those instances the wireless, the fact
8 that wireless is there isn't going to be enough if what you're
9 trying to do is to make sure the consumers get the same thing
10 they're getting today.

11 You might also just conclude that you don't, you
12 don't care if there's some degradation in quality or you don't
13 care if price goes up by a certain amount. I mean, those are
14 also outcomes that you'd have to be aware of it.

15 One last point. Everything I just told you has to do
16 with residential because I just refuse to believe there's any
17 practical substitutability between a wireless phone and a
18 wireline service in a business community. Real businesses do
19 not answer their phone with the risk profile that a wireless
20 phone gives you.

21 **MS. CLARK:** Mr. Chairman, if I just, if I could
22 interject at this point on the issue of the competition he's
23 been talking about with regard to business. I don't know that
24 that is particularly to the point here because the rules that,
25 the service rules particularly don't apply to business already.

1 That's already been done away with with regard to business
2 service.

3 **MR. GILLAN:** You know, I would agree with her except
4 for the fact that they're giving you this issue the way they
5 framed it, which is that you're supposed to take a market test
6 and find that a market is competitive. And part of that test
7 is this argument that if you see something in the residential
8 market, then you can conclude that the business services are
9 competitive.

10 **MS. CLARK:** And I would only ask --

11 **MR. GILLAN:** That's why, that's why this doesn't make
12 any sense. She -- the point is correct. The rules are looking
13 for relief from have a residential application, but they didn't
14 come here asking you to make decisions about residential market
15 and residential rules. They asked you to make this very broad,
16 sweeping conclusion and the fact that the entire state for
17 every service for every consumer is competitive. And that's,
18 that's why I'm here.

19 If they had structured this as narrowly as she
20 suggested would be appropriate, we probably wouldn't be sitting
21 here. And we've been trying very hard to get out of here ever
22 since this docket started by pointing out that if you just got
23 rid of the market test and looked at the rules independently,
24 you wouldn't have this debate in front of you.

25 **COMMISSIONER McMURRIAN:** Let me --

1 **MS. CLARK:** I'll wait and answer. And I apologize
2 for interjecting, Mr. Chairman.

3 **COMMISSIONER McMURRIAN:** Thanks. I really want to
4 focus more on, and I've collected my thoughts a little bit
5 better, about the way Mr. Beck put it, it was the rates, terms
6 and conditions and how those really aren't comparable because
7 of the types of technologies that we're talking about, meeting
8 the alternative service provider test or the things that you
9 have to show, that there are two other alternatives, and those
10 would be wireless and cable and I can't even remember the --
11 broadband. And I think he was making the point that, you know,
12 those aren't provided on the same rates, terms and conditions,
13 and he used some examples especially about the rates.

14 And then I think we also had some discussion about,
15 and I think Mr. McCabe maybe raised the point about how there
16 were some providers though that provided rates that he couldn't
17 compete with and that they were more along the lines of what
18 the telephone company is providing. So I guess it's a little
19 confusing to me as to whether they're similar rates or rates in
20 the same, in the same territory as the ones provided by the
21 phone company if you're talking about just the phone service.

22 And then with respect to the terms and conditions, I
23 think that Mr. Twomey talked more about -- I don't -- I agree
24 that I don't think that you've got equal products in wireless
25 and cable. But I guess I'm sort of torn with how equal do

1 services have to be to recognize -- and, again, I'm not sure
2 about the test. I'm just sort of talking more in philosophy,
3 in a philosophic sense as to if you have competition, and we
4 can all talk about how much competition there has to be and I
5 think that's where you get back into what a test would be and
6 if you would need a test. But how equal do competitors have to
7 be to say that there shouldn't be regulation?

8 And I guess in the other, the other thought, and,
9 again, I'm just probably unfortunately thinking out loud, is
10 that if you were designing, if you were looking at the
11 telephone market today or the, the communications market as a
12 whole, would you set up a regulatory system over that market or
13 would you see enough competition to say we probably wouldn't
14 create a regulatory body because we don't see a monopoly
15 provider? I guess that's, that's philosophically what I keep
16 coming back to. It's not to say that I think that these rules
17 don't have merit or that, you know, that they're too old as
18 we've talked about or arbitrary. I think it's more about --

19 **CHAIRMAN CARTER:** (Inaudible. Microphone off.)

20 **COMMISSIONER McMURRIAN:** No, I didn't. I just looked
21 over. I'm getting myself in trouble. (Laughter.)

22 But I guess that's what I keep coming back to is
23 we've talked a lot about equality of these services and all
24 before. But, again, I don't know that in most competitive
25 markets that you have exactly equal competitive offerings and

1 that the consumer decides if they're equal enough to choose the
2 other provider. Or if they aren't equal, perhaps even the
3 competitor provides something better. Or if they provide
4 something less in one area, maybe they provide something better
5 in another that makes it offset. And, again, I'm just sort of
6 thinking out loud.

7 But I wanted to hear, I wanted to focus more on the
8 rates, terms and conditions comparison and what it would take
9 to meet some kind of a competitive test. Because I guess
10 philosophically I think the market is competitive. How
11 competitive and exactly, you know, what you should do to meet
12 some kind of a test, again, I think we could have long
13 discussions about that. But how do you get around the fact
14 that the technologies are probably never going to be equal and
15 still have the sense of regulation as a substitute for
16 competition? I know that's a long --

17 **CHAIRMAN CARTER:** Mr. Kelly, then Mr. Twomey and then
18 --

19 **MR. KELLY:** Me and Mr. Beck, we're going to tag team
20 here a little bit if it's okay with you, Mr. Chairman.

21 **CHAIRMAN CARTER:** You're recognized.

22 **MR. KELLY:** You bring up some very good points,
23 Commissioner. I mean, I think the whole gist of why we're here
24 today is, is really whether to repeal/amend the quality of
25 service rules relating to telephone service. I mean, that to

1 me, if you get down to the bottom of what we're looking at,
2 that's it.

3 Our feeling is we haven't seen any compelling
4 evidence or convincing arguments that tell us you should
5 eliminate the quality of service rules with respect to
6 telephone service. I'd submit to you that consumers today
7 expect quality of service when they have a telephone; they pay
8 for quality of service and they demand quality of service.
9 And, and our position is we should not do anything that, with
10 the regulations that would give consumers something less than
11 what they should be receiving today. And you bring up a good
12 point about competition, because I think there is competition
13 in certain areas. Absolutely there's competition today.

14 But, and let me, let me say that we favor competition
15 because competition should, if it works itself correctly in an
16 industry, no matter which industry you're talking about, it
17 should make that industry work harder for the consumer. And
18 bottom line is that should result in better products or
19 services that, that belong to the consumer.

20 However, as it's been suggested that competition
21 alone will drive up the quality of service to consumers, then
22 the question I think we have to ask is why hasn't that
23 happened? And I'm going to turn it over to Mr. Beck and let
24 him make a few points here.

25 **CHAIRMAN CARTER:** Mr. Beck.

1 **MR. BECK:** Thank you, Mr. Chairman, Commissioners.

2 Like Mr. Kelly said, of course, we're very much in
3 favor of competition and recognize the benefits it's brought to
4 customers. I think the competitors, there's a continuum out
5 there. And I didn't just dream up the rates, terms and
6 conditions. That's what the Legislature asked you to report on
7 when you talk about competition.

8 And, you know, various alternatives come in at
9 different points on the scale, and I think the point I was
10 making is, is that the incumbent local exchange companies have
11 just ignored that in their presentation. They want to count a
12 \$100 package from a cable company as competitive with their
13 basic local telephone service. And I would submit to you they
14 haven't -- you can't just ignore those issues. I don't have a
15 perfect test for you or market test or anything else, but that
16 needs to be considered.

17 And I know at Internal Affairs I mentioned this once,
18 that if you look for a competitive alternative here in
19 Tallahassee at comparable rates, terms and conditions, you'd be
20 hard-pressed to find one. I don't think you -- I haven't been
21 able to. You know, there's always, you either have, have usage
22 rates or higher prices, it's not the same quality. They're
23 just not out there. And your report, your recent report on
24 competition shows that the wireline competitors have been
25 severely cut back most recently, so that's something to

1 consider too.

2 So I don't have an answer per se to their test other
3 than to say that you can't ignore in our view at least the
4 comparable rates, terms and conditions.

5 On the quality of service, let me say this. On
6 Verizon we've, I guess you're all aware we filed a petition
7 asking for issuance of a show cause order. And back in 2001
8 after an investigation into their quality of service they were
9 providing superb service according to your rules as far as
10 repair times, out of service repair, affecting service repair,
11 answer times. What we've seen over the years, that it's gone
12 down fairly steadily to where before they were easily meeting
13 it, now they're hardly at all meeting the rules, and this has
14 happened at a time when competition has been increasing.

15 So we're concerned that what you've been seeing is
16 the statistics going down for the companies. And then instead
17 of complying with the Commission's set standards, they're
18 asking you to just get rid of the rule at a time when they're
19 not complying with it. And you have Verizon on the one hand
20 has no service guarantee plan, Embarq and AT&T do, and we see
21 big benefits there. I mean, they really should get some credit
22 for stepping up to the plate and offering this because at least
23 in their, their guarantee plans customers get something back
24 when they don't meet the agreed upon criteria. Now they also
25 have not been up to the standards that we see in your rule, but

1 the customers fare are, fare far differently under the service
2 guarantee plans than you do with a company like Verizon that
3 doesn't have one.

4 **COMMISSIONER McMURRIAN:** If he would like to weigh
5 in. I did want to respond to something though that Mr. Beck
6 said, and I think I mentioned this once at Internal --

7 **CHAIRMAN CARTER:** Go ahead. You're recognized.

8 **COMMISSIONER McMURRIAN:** Thank you, Chairman. Thank
9 you. I'm sorry.

10 I think I mentioned this one time at Internal Affairs
11 and I, and I guess I just have to mention it. Because when we
12 talked about the rates and we were talking about that, you
13 mentioned that you couldn't compare the \$100 package of a cable
14 company to what you get from the voice company or from the
15 ILEC, and I think I mentioned one time in Internal Affairs that
16 I was one of those customers, and I guess, Embarq, cover your
17 ears, I was one of those companies, I mean, one of those
18 customers that had chosen to go with a cable company. And my
19 part of, the part of my bill with respect to voice, and it is
20 an introductory rate, but the part of my bill with respect to
21 the voice is about the same that I was paying. I'm pretty sure
22 it wasn't more. And all I had with my basic service was, I
23 think, one feature. Again, you could get better deals if you
24 had more features added.

25 But I guess what I'm saying is that there are, I

1 believe that there are comparable rates out there at least with
2 respect to cable. I think mine was definitely comparable as
3 far as the voice piece. Now could you have gotten that without
4 the other two? I, I understand where you're coming from.
5 Although they have different packages where maybe if you get
6 two things as opposed to three, you can still get some of the
7 better deals. And, of course, there's the Vonage for the
8 \$24.95 and that sort of thing. I just, I guess I just wanted
9 to mention that because I'm not sure that the \$100 is quite
10 comparable either to what you're paying for basic phone service
11 either and it's probably something more in the middle.

12 But anyway, I do, I do want to also hear from
13 Mr. Twomey about that. And I, and I do share some of your
14 concerns, but I guess I'm still sort of left with how -- would
15 it have to be essentially a CLEC provider and we'd have to
16 have, I don't know, three, four, I'm not sure what defines a
17 competitive market under economic theory, but would you have to
18 have three or four CLEC providers to say there was enough
19 competition to have less regulation?

20 And, again, it's not -- and your point about the
21 statute is well taken too. As long as the Legislature tells us
22 to regulate telephone, then I think we do that. I guess I'm
23 just saying when we have these issues brought to us about how
24 should, what should our regulation look like and that there is
25 some, there is some deference to us as to, you know, exactly

1 how to do that and what answer times and things like that
2 should be, how do I determine when a market is competitive if
3 it, if it, you know, unless -- it seems like the extension of
4 what, what I hear you all saying is perhaps it would have to be
5 three or four CLEC providers that provided exactly comparable
6 service to the ILEC and I guess I just keep getting hung up
7 with that. But I'll let anybody jump in if they can help me.

8 **MR. BECK:** I think you consider all three of them.
9 It's not just price. You have all those three things to
10 consider on that.

11 **COMMISSIONER McMURRIAN:** Okay.

12 **MR. BECK:** When you look at the alternatives such as
13 VoIP, recognize 40 percent of the people in the state without,
14 or that have a wireline phone do not have any sort of broadband
15 at all, not from the cable, not from the telephone company. So
16 there's millions of Floridians out there that that's not a real
17 alternative for because they have selected -- or they don't
18 want broadband.

19 **COMMISSIONER McMURRIAN:** Right. Thank you.

20 And, Mr. Twomey, if you --

21 **MR. TWOMEY:** Or they can't, following along with what
22 Mr. Beck said, or they can't afford broadband.

23 The -- it seems, it may seem trite at times to hear
24 people like me and people like my clients and others talk about
25 people that live on fixed incomes and people especially that

1 live on fixed low incomes or low incomes, but, but y'all know
2 that it's true. You hear in your electric fuel cases the
3 impact of the, some of the decisions, the hard decisions you've
4 had to make, many of those decisions where you had no, really
5 no discretion or very little discretion in terms of the
6 outcomes you have to approve because they're fact based, the
7 price of fuel going up and that type of thing. So, but I'm not
8 telling you anything that you don't know. There are people in
9 this state under the pressures that we've had in terms of
10 increased property taxes, insurance and that kind of thing
11 whose budgets are pinched increasingly month by month. So
12 there are people out there that can't afford some of these
13 services and that's just plain and simply a fact. The fact
14 that 40 percent of them don't have broadband is important.
15 It's a greater number, of course, than the one-third Mr. Gillan
16 talked about.

17 So the -- and if you don't have broadband,
18 Commissioner McMurrian, you can't have the, you can't have VoIP
19 of any kind. And it's probably unlikely, at least as I've
20 seen, that you could get your Comcast three-play bundle and get
21 just telecommunications service alone from them and certainly
22 at a price that's comparable to Embarq's for a stand-alone
23 plain old telephone service.

24 AARP is also here to support the positions taken by
25 Public Counsel, and I again adopt on behalf of AARP what

1 Mr. Kelly said and what Charlie Beck just said a moment ago.
2 We believe those are the correct answers.

3 With respect to how you would gauge what level of
4 comparability there is, if I were sitting up there, I would
5 expect to see a matrix at a minimum. I mean, if we take the
6 City of Tallahassee, if we take Leon County or a three- or
7 four-county area around here, there ought to be a matrix that
8 somebody would have prepared that says, okay, Embarq has the
9 following service, plain old telephone service, plain vanilla
10 at the lowest cost level is X. Is there, is there a one- or
11 two-year contract? The answer would be no. What is the price?
12 What are the taxes and so forth? Is there effective
13 911 service? Does it take a source of electricity for the
14 service to be maintained absent the lines being cut somehow?

15 And then you would do the same thing with any CLECs
16 you had here if they were hard wire, you'd do the same thing
17 with, with cell phone communications, you'd do it with Comcast,
18 and you'd do it with the others that are perceived to be
19 available in this city, in this county, in this area based on
20 these things. And you could look then and see, okay, well, you
21 can get, you can get Comcast telephone service. And whether
22 it's the same quality would be debatable perhaps, but you'd
23 have a price associated with that. And I'm suggesting probably
24 it would be greater than what Embarq's cheapest or least
25 expensive service would be.

1 And you would probably -- and you would have, one of
2 those boxes would necessarily have to be unlimited local call,
3 which is, you've heard over the years that, that most people
4 are concerned with, especially the elderly, the shut-in and
5 that kind of thing to talk on an unlimited basis without
6 additional charges. I have unlimited service on my, my Sprint
7 cell phone here in Tallahassee, and that and a few other things
8 is \$100 a month, I think \$100, \$105 a month, which is fine, I
9 can afford it. But, but a lot of people that can barely now
10 afford to pay for basic ILEC telephone service aren't, aren't
11 there for the unlimited service.

12 But you have all those boxes, you'd have the matrix,
13 and I think the five of you would be better situated to see
14 what things are comparable and not.

15 But a more fundamental point I think is that, it was
16 raised best I think by Joe Gillan, who is, of course, an expert
17 in this field and who I always like being in the same room with
18 because his level of enthusiasm makes my level of advocacy
19 always seem pale by comparison, or reasonable perhaps.

20 The -- but Mr. Gillan said, you know, he raised a
21 fundamental question, which is what's the, what's the goal
22 here? And the, the ILECs, I think, if you examine this in the
23 most stark terms, are saying we want to have a competition test
24 in order to get rid of the quality of service rules. Well, why
25 not, as Mr. Gillan said, just go to the rules and look at them

1 individually? And they stand on their own merits, okay. They
2 should not, they shouldn't require competition to decide
3 whether those rules stay or not. And if, and if you can look
4 at the rules independently of competition, then standing alone
5 what value is there in you making some kind of a broad,
6 sweeping determination of what parts of this state are
7 effective to competition, especially if you don't know if the
8 competition is comparable?

9 **COMMISSIONER ARGENZIANO:** Mr. Chair.

10 **CHAIRMAN CARTER:** Commissioner Argenziano.

11 **COMMISSIONER ARGENZIANO:** To that same line and what
12 you've just been discussing, discussing with Commissioner
13 McMurrian, my mom is a senior who's on social security, has a
14 very limited income. She has no desire for broadband and no
15 ability to pay for a bundled service, which would be maybe good
16 for me and better priced for me but not for her in comparison
17 to her landline phone.

18 And in regards to comparable, in your opinion, and
19 maybe Mr. Beck can answer this too and anybody else who wants
20 to jump in, would it be -- if we're talking about competition
21 and comparable, would it be comparable, let's not say, it's not
22 even the cable anymore, let's say wireless and you have a phone
23 here and you have a phone here, would it be comparable to go
24 from a landline to a wireless if you have contracts and you
25 have minutes? And I'm just trying to figure that one out. If

1 we're talking comparable, is it really comparable if you have
2 to add in those other things like my mother is not paying for
3 now? So I'm not sure, you know, how the companies are going to
4 answer that, but I'd like to know if we're talking about
5 comparable, doesn't that factor in or wouldn't that factor in
6 in your thinking?

7 **MR. TWOMEY:** Very briefly. I think the answer is
8 they wouldn't be comparable and that's why I suggested the
9 matrix concept is that you would look at your mother's existing
10 service, whether it's by Verizon or whoever the provider is
11 there, and you'd find out what her basic plain old telephone
12 service rate is which gives her unlimited local calling, and
13 then you'd look at any number of other alternatives that would
14 be offered up, in this case cell phone, and you'd find out what
15 the cost would be for unlimited minutes.

16 **COMMISSIONER ARGENZIANO:** Well, I guess what I'm
17 trying to get at -- and I understand that. What I'm trying to
18 get perfectly clear is because a lot of times when we talk
19 about competition we think just because you have a cell phone,
20 well, that is the alternative, that is a phone. But there are
21 other things that are different about the cell phones or the
22 landlines, and so to me I'm thinking if it's comparable, then
23 you have to look at those other things. Because when I have my
24 cell phone, I have to tie into at least two years provided --
25 whatever the service I get, I'm stuck for two years. So that

1 to me is added into comparable, not just the phones. Because
2 when you talk to people, you say, well, you're right, yeah,
3 there are cell phones now all over and there's the cable all
4 over. But those other components, if they were identical in
5 all manners, if I could call up and say for my mom I'd rather
6 get her a cell phone because it may, she may get unlimited,
7 maybe get, well, not unlimited, but get a good deal on a cell
8 phone, but then add in the fact that she has to sign in for two
9 years and add in the fact that she's got minutes and overages
10 for any minutes above that, then my, my concern is that you're
11 not talking comparable anymore. So it's not just the phones
12 itself, and I guess that's what I was trying to get. Is that
13 what you're saying when you really go into rates and --

14 **MR. BECK:** Yes. Exactly. I mean, that's exactly it.

15 **COMMISSIONER ARGENZIANO:** Okay. Thank you.

16 **CHAIRMAN CARTER:** Mr. McCabe.

17 **MR. McCABE:** Thank you. Tom McCabe.

18 I want to comment in terms of what Joe said with
19 regard to local exchange companies having the ability to
20 increase their rates. And that may be the case and he may have
21 evidence of that, but I can share with you in terms of how my
22 company operates.

23 I mean, we, as far as the competition test, we
24 believe we have competition throughout our markets. We operate
25 in 28 different states. We've got 28 different sets of

1 regulations. That is what's important to us in this docket in
2 terms of trying to eliminate a lot of those costs, regulatory
3 costs that are on us.

4 I mean, again, you know, unfortunately we kind of get
5 looped into this, this whole conversation on what's happening
6 out there in the communications market because we're a small
7 provider and we don't know how to handle -- you know, we don't
8 want to do something one without the other.

9 But we've got pricing flexibility in a lot of our
10 states. And I can tell you that as a support person to our
11 marketing people we tell them, "You have the ability to
12 increase your local rates." You will not see our marketing
13 folks increase those local rates. So we can talk about theory
14 in terms of what we have, the ability, but the reality is we're
15 not seeing that. I mean, we're not able to do that.

16 You know, we've got situations in some of our
17 marketplaces in which regulators put in wild, crazy calling
18 plans. Those things have created nightmares for us because we
19 might have a mandatory call plan that increases the rate \$8 for
20 local service, yet a customer today can get unlimited long
21 distance service from our competitor. And yet we've got
22 regulations that might say, well, you've got to take this
23 mandated service. Those are the problems that we as a small
24 local phone company are experiencing today.

25 The issues of service quality, I bet you I don't get

1 ten customer complaints in a year. Those aren't major problems
2 that we have. What we have, when we look at -- in our service
3 quality, you know, we talk about answer times. You know, they
4 were all developed back in a monopoly standpoint. You know, if
5 you wanted to have 80 percent of your calls answered within 30
6 seconds, you hired more people. All that cost was being put
7 into the rate base and then we'd go back and sit there and say,
8 okay, here's what the local rate is going to be. That changes
9 today because our customers are looking for different things.

10 We have to make decisions. We've got to decide, do
11 we want to make sure that my customers have access to
12 broadband? I never get somebody calling me saying, hey, you
13 know, calling the Commission, we don't have -- folks are taking
14 too long to answer the phone. But we get people saying when
15 are you going to provide broadband in our market, and those are
16 the things that we're focusing on.

17 We've done a lot in terms of trying to restructure
18 how we operate because we don't have any choice. I mean, one
19 of the nice things that rural telephone companies had, they had
20 the ability to have local markets and have local offices. But
21 the reality of the economy today, the way it is, we don't have
22 that luxury anymore. We've had to go ahead and be just like
23 the large companies in terms of shutting down our local
24 offices. We've had to control our costs because our revenues
25 are declining and that's what it comes down to.

1 This idea that we're, that tomorrow you're going to
2 have bad customer service or service quality, I don't see that
3 happening. I mean, what we've done, we've basically
4 consolidated and moved into like a virtual business office
5 arrangement in which we've got some of the -- you know, we
6 protected the jobs at the local areas, but they're all
7 interconnected from a call center standpoint. But then what we
8 decided is that we need to specialize. We've got folks that
9 handle DSL, we've got other customers (sic.) that are
10 responsible for sales and services, other groups that are
11 responsible for repair, things of that nature, and that's what
12 our management determined that that is our best way of meeting
13 the needs of our customers. None of that had to do with the
14 fact that we might have a Florida Commission rule that says
15 30 percent of your calls, I mean, 80 percent of your calls need
16 to be answered in 30 seconds.

17 One of the things that we're having to do is that
18 we're having to jerry-rig the system so that we direct calls
19 from our Florida customers and give them priority in the queue
20 over our customers in Georgia or in Wisconsin or something of
21 that nature, and those are the things that we're trying to get
22 rid of.

23 **COMMISSIONER ARGENZIANO:** Mr. Chair.

24 **CHAIRMAN CARTER:** You're recognized.

25 **COMMISSIONER ARGENZIANO:** A question to that because

1 I hear the answer time is the real problem. And it seems to
2 me -- I don't know, maybe I'm not focusing on the other ones
3 that may be a problem, but why can't that be addressed as one
4 rule in your opinion? Why can't we look at that and say, okay,
5 maybe it is time to look at that. Maybe a 30-second, 60-second
6 answer is not right. Maybe you should be able to put a
7 recording on there that says we'll be with you in a minute or
8 two.

9 **MR. McCABE:** I think in terms of participating in
10 this proceeding everybody has some different interest. I mean,
11 our interest in this was in the area of the service quality
12 rules because those contribute the greatest amount of cost to
13 us. And those are the things that --

14 **COMMISSIONER ARGENZIANO:** But understand, that's what
15 I'm hearing is your only reason to get rid of everything it
16 seems to me is the answer time.

17 **MR. McCABE:** No. No. No. No. There's others. I
18 mean, just for another example though with the answer time,
19 things have changed. I mean, customers today, when we had
20 those answer times go in, all they basically bought was an
21 R1 line, maybe some class features. Today we've got new rules
22 in place in terms of CPNI rules. Those new regulations create
23 longer hold times. We also have customers demanding bundled
24 services. All those things contributed to making it a lot more
25 difficult for us to -- not difficult, but we have to spend more

1 time on the phone with our customers.

2 Another example with regard to installs. You know,
3 Florida rule is that you have to have install done within three
4 days. Well, my rule in Georgia is five days. So if I
5 implement in four days, in Florida I have folks that are saying
6 I'm providing terrible service, but in Georgia I'm having folks
7 saying, telling me I'm providing great service because I beat
8 the deadline by a day. So that's what I'm talking about in
9 terms of being arbitrary.

10 And in my marketplace I get about 3,000 in/out orders
11 on a yearly basis. I only have 8,700 access lines. I've got
12 customers because of my marketplace that are moving from house
13 to house, they're being disconnected for nonpay, all those
14 things, and what they do is they create costs on our company.
15 And, you know, but we're happy to serve the customers. But it
16 comes down to a matter of trying to figure out how we're going
17 to balance our cost and expenses with the declines in our
18 revenues.

19 And one other item with regard to repair. You know,
20 our goal, our objective is to have our repair done, if someone
21 calls in before 3:30, to have that done by the end of the day.
22 If not, it's within 24 hours. Do we meet that all the time?
23 No. But one of the things that we do is we check and make sure
24 that customer has a cell phone because that was one of the
25 reasons why the 24-hour rule was because, you know, in case of

1 an emergency. Most of the time when we ask the customer
2 already has a cell phone. So the need for making it a priority
3 that that line gets turned back on within 24 hours isn't what
4 it was ten years ago. Thank you.

5 **MS. CLARK:** Mr. Chairman.

6 **CHAIRMAN CARTER:** Yes, ma'am.

7 **MS. CLARK:** I see Tom was looking through his slides
8 for Agenda Item 2. I'm just wondering are, are we on Agenda
9 Item 2? And I think that gets --

10 **CHAIRMAN CARTER:** We're headed that way. We're
11 headed that way.

12 **MS. CLARK:** -- gets to the question Commissioner
13 Argenziano was asking. And I think, I think what you're saying
14 is let's talk about the rules, and that's where we want to be
15 as, as well. And our thought was that, along the lines of what
16 Commissioner McMurrian said, you have the rules as needed
17 because regulation had to substitute for competition. Now you
18 have some degree of competition which we think has obviated the
19 need for these rules, and I think it would be well to turn to
20 Item 2 and hear from a couple of people on how they, those
21 rules impact them and then if we can go through the list as
22 well. Because even though Mr. Gillan takes issue with our
23 test, it's my understanding he doesn't take issue with a lot of
24 the streamlining we're suggesting needs to be done.

25 **CHAIRMAN CARTER:** Ms. Kaufman.

1 **MS. KAUFMAN:** Thank you, Mr. Chairman.

2 And I think we're all ready to turn to Part 2, but I
3 just want to maybe close out this part by saying you have heard
4 Mr. McCabe eloquently explain to you why you might need to look
5 at the answer time rule. Every single thing that he told you
6 is in our view evidence as to why perhaps that rule should be
7 modified. Mr. Beck, Ms. Bradley may have other evidence to
8 share with you. And we think that's how the proceeding should
9 go and you look at each rule on its merits and you hear from
10 the parties, not imposing this test that we are now about to
11 leave, and go to the specific rules, which is where we've
12 always wanted to be. Thank you.

13 **CHAIRMAN CARTER:** Okay. Commissioners, anything
14 further? Otherwise we're going to go to Item 2, which we'll
15 actually go through the rule itself. Any, Commissioners,
16 anything further from the bench? Okay. Staff, any further
17 questions on that? Are you, are you ready to proceed? Okay.
18 Parties? Any of the parties, any questions further on this
19 before we proceed to Item 2 where we start to go line by line
20 on the, or section by section on the rule?

21 Oh, Ms. Perry.

22 **MS. PERRY:** Thank you, Commissioner.

23 I had a handout that I had given at, a partial
24 handout that I had given at the last meeting. If I could hand
25 it to you, it's from your reports, and I think it goes to the

1 question that's been asked several times.

2 **CHAIRMAN CARTER:** Thank you, Mr. Twomey.

3 **MS. PERRY:** It's not the entire handout that I gave
4 before. It's kind of abbreviated but it gets the point across.
5 And it goes to the point that Commissioner McMurrrian has been
6 asking. The first page just shows the local exchange charges
7 and that's not really what I'm going to ask you to look at.

8 The next pages are actually the companies within the
9 State of Florida that we're calling competition and whether
10 they resell the local exchange network or they have a switch of
11 their own and they don't use the local exchange network. So I
12 think if you're coming up with a rule for the rule, you need to
13 also take into consideration in the competition whether it's a
14 CLEC that is actually reselling the local exchange service. So
15 is that a competition because they are selling the local
16 exchange service, and that's something you need to take into
17 consideration when you're making your decisions. And I think
18 that's what Commissioner McMurrrian was talking about. You have
19 the local exchange company and then you have a CLEC that sells
20 the local exchange company as their own.

21 Now on the last page are the Voice over the Internet
22 that actually use some of the exchange, some of the wireline
23 services. So, again, when you're looking at a rule for a rule
24 for a rule for a rule, you need to make sure you, you have your
25 ducks in a row, you have the local exchange company, you have a

1 CLEC that sells the local exchange company, you have a true
2 CLEC and then you have Voice over the Internet Protocols with
3 the other information that, that the, the other participants
4 were talking about. I just wanted to make sure that -- because
5 you had asked that question a couple of times, you know, is a
6 CLEC just selling the local exchange company or do they have
7 their own network of their own, and it looks like very few in
8 the State of Florida. So I just wanted to make sure you had
9 that for, for your, for your competition rule.

10 **CHAIRMAN CARTER:** Thank you, Ms. Perry. We really
11 appreciate that. Anything further before we proceed on Item 2?

12 Okay. Let's, staff, let's see. Let's turn over to,
13 Commissioners, in your documentation under Item 2, it's the
14 rule matrix.

15 **MS. CLARK:** Mr. Chairman, as a preface to talking
16 about other rules, Mr. McCabe and Ms. Willis as well as
17 De O'Roark wanted to make some general comments on these, on
18 the service rules, and I think Mr. McCabe may have already
19 covered a number of them. So, Tom, do you have anything more
20 that you want to bring up at this point?

21 **MR. McCABE:** Yes, just real briefly. I won't go over
22 all of this stuff. I basically covered all of it. But I just
23 wanted to point out, if you go to -- I don't know where the
24 clicker is. I just want to explain in terms of what this slide
25 represents here. And what we have here is based on our own

1 call volumes and data the number of full-time employees that we
2 need to have answering the phone within a certain percentage,
3 within, within a certain time. And just for an example, in
4 terms of how that cost is, how that impacts us, those
5 decisions.

6 For example, if we were to go to the 80 percent mark,
7 and when you have a rule that requires you to answer the phone
8 within 30 seconds, that requires us to have 180, nearly
9 184 employees. But as, but if that rule was 60 seconds, it
10 would require us to have 175 employees. So that's how that,
11 you know, those things impact us.

12 As you try to increase the answer times and the
13 percentages it increases the number of employees that we need.
14 And so if it's, you know, 80 percent within 30 seconds, we end
15 up having to hire eight more people. You look at a fully
16 loaded labor rate of about \$50,000, you're looking at \$400,000
17 that are now imposed on my company that are not imposed on my
18 competitors, and those are the things that we're looking at.
19 And at the same time we do think that regardless of that we
20 have put in steps to make sure that the customers are getting
21 the services and that we're providing the level of service that
22 our customers need. Thank you.

23 **MS. WILLIS:** Windstream echos many of the comments
24 that Mr. McCabe has already stated. We agree with Commissioner
25 McMurrian that the existing rules were put into place as a

1 means to monitor service quality in a monopoly environment and
2 we simply don't operate in a monopoly environment anymore.

3 When Windstream was formed as a spinoff of Alltel's
4 wireline business in 2006, one of the things that we wanted to
5 do is make sure that we hit the ground running and knew what
6 was important to our customers for the services that we were
7 providing. We provide voice, broadband, digital TV and data
8 services. So we surveyed our customers and what we found was
9 that for each of these services what makes for a satisfied
10 customer did not vary among the services. So we found that our
11 customers are making choices based on their own personal
12 preferences based on a variety of drivers that create an
13 overall customer satisfaction for them, and it did not vary
14 between the services, whether it was voice, broadband, digital
15 TV or data services.

16 For example, with answer time requirements what we
17 found was that customers were more interested in first call
18 resolution of their issue rather than if a live attendant
19 picked up the phone in a certain amount of seconds. Our
20 customers told us they were more interested in a resolution of
21 their issue when the phone was picked up rather than how long
22 they stayed on the phone.

23 We have found also even when we talk about -- and Tom
24 mentioned the availability of service, how we have to have our
25 service in within three days. I also operate in multiple

1 states and where the requirement, if there is a requirement, is
2 five days. Here in Florida not only do we have the rule
3 requirement regarding installations within three days, we have
4 a service guarantee plan on top of complying with the service
5 rules, which means we not only comply with the rules, we also
6 have a guarantee program that says that we can't negotiate a
7 day that's further out than five days. So in our opinion we're
8 even more disadvantaged than our ILEC brethren because not only
9 do we have rule requirements, we have a service guarantee plan
10 that was put into place when we spun off our company.

11 When we talk about answer time in states where we
12 don't, where Windstream doesn't have answer time requirements,
13 for example, in Mississippi, South Carolina and Kentucky, we
14 have no answer time requirements nor do we have complaints
15 about customer hold times. We have found that when we focus on
16 first call resolution of our customers' concerns, we are
17 basically able to give our customers a greater customer
18 experience. What this means for us is the ability to actually
19 answer more calls. And we have reduced the number of abandoned
20 calls where we don't have to prioritize based on a Commission
21 rule, but rather we are prioritizing based on what our
22 customers have told us is important to them.

23 This is another example of rules that we have that
24 our customers don't have. When we talk with our customers,
25 many of our customers talked about the complexity of our bills

1 and in some cases the amount of data and just the length of our
2 bills. And when you compare that with other bills that they
3 have coming into their house, they found our bills just simply
4 difficult. And not because we feel like we need to inundate
5 our customers with a lot of information but because we have
6 rules that require how we structure our bills.

7 Again, here in Florida in comments that were filed by
8 OPC, the AG and AARP it was acknowledged, and we thank them for
9 that, that Windstream is compliant with PSC service rules a
10 significant amount of the time, 98 percent, I believe, yet
11 we're still subject to expensive and time-consuming service
12 audits when we're 98 percent compliant with service quality
13 rules. Even with that level of compliance, Windstream has
14 customers who are making decisions based on their own personal
15 preferences as to whether or not they want Windstream's
16 services.

17 In our opinion, these rules should be applied when
18 customer complaints dictate that there is a problem with our
19 service, and we have found that that is not the case for us.
20 We believe that regulatory parity is needed now in Florida.
21 There is no opportunity for us as an ILEC to provide poor
22 service. Our customers demand quality service and we are in
23 the business of giving our customers what they demand.

24 The number of providers and the types of services
25 have changed. What customers want has changed. We believe

1 that many of these rules are simply antiquated and no longer
2 applicable and not needed to protect the public interest. We
3 don't feel that there is a need for any regulatory body to
4 protect our customers from us, their service provider. We are
5 in business because we want to provide good service. We will
6 stay in business by providing good service. We believe that
7 the customer choice protects the public in today's environment.
8 Thank you.

9 **MR. O'ROARK:** Good afternoon, Commissioners.
10 De O'Roark again with Verizon.

11 At the last staff workshop there was a question
12 asked, and I think it was heartfelt and I think it's been
13 echoed here today. It was essentially whether it isn't true
14 that consumers continue to have the same expectations and
15 demands for service quality that they've always had, and I'd
16 respectfully submit that the answer to that question is no.
17 I'd like to give you a couple of examples.

18 I've asked our regulatory folks to dig up some
19 information specifically on service outages and service
20 affecting trouble going back last year. It's a laborious
21 process, our folks are still going through it. But what I
22 asked them to do is say, okay, we've already reported to the
23 Commission the number of outages we had, the number of misses
24 we had. What I'd like to know is how many complaints have we
25 had by consumers who experienced a miss? It's a way of getting

1 at how much do consumers care about this? I think we have
2 heard well-intended expressions of concern on behalf of
3 consumers, but what do consumers themselves say about this?
4 And as I say, it's a laborious process, we're gathering the
5 data, but let me give you an example from January of 2007.

6 For that month there were 25,893 reports of service
7 outages throughout the Verizon footprint in Florida. We met
8 the service objective of 24-hour restoration 92 percent of the
9 time. That left us with 2,043 misses. During the month the
10 number of complaints that we received by consumers who had
11 experienced a miss was three, and that's complaints from all
12 sources, whether from this Commission, directly to us or from
13 some other source.

14 If you look at service affecting troubles, it's the
15 same story. In January there were 12,746 reports. We met the
16 72-hour service objective 85 percent of the time, which means
17 there were almost 2,000 misses, 1,965. The number of
18 complaints that we received from consumers who experienced a
19 miss was two. And what I would submit to you is that suggests
20 a disconnect between the energy and focus that we have on those
21 service objectives and what customers' needs, demands and
22 expectations are.

23 Let me give you one other example. As you know and
24 as has already been mentioned here today, in 2005 the service
25 rules were lifted for business customers. And I think it is

1 fair to say that the sky has not fallen, that outside our
2 little world here it has largely gone unnoticed. There's not
3 been a surge in complaints or a surge in problems. I would
4 suggest to you that the recent experience both with what I just
5 described as far as outages and service affecting troubles and
6 the reaction to the lifting of the service rules for business
7 customers is not surprising. A number of the rules that we're
8 talking about date back to at least 1968.

9 Unlike a lot of people in the room, I remember 1968.
10 I was in second grade. It was toward the end of the Johnson
11 Administration. Nixon had just been elected. Like a lot of
12 families, we had AT&T as our telephone service provider. I say
13 like a lot of families because at that time AT&T provided
14 80 percent of the country's telephone service. Long distance
15 competition in the consumer market was still a long way off,
16 MCI and Sprint were not competing in the consumer marketplace
17 yet, no one knew what a cell phone was, and our family, like
18 most families, got their television service from a black and
19 white set with rabbit ears. That's a very different
20 circumstance than we find ourselves in today.

21 Since 1968 the telecommunications industry has been
22 through one of the most dramatic revolutions in the history of
23 American business. In 1968 it was far more important that
24 service be restored in 24 hours because there was no backup
25 system. Unless you were on good terms with your neighbor you

1 were just out of luck, or if you had a payphone nearby, you
2 were out of luck until your service was restored. As we've
3 heard today, cell phone service is virtually ubiquitous. If
4 you're out of service, you have a backup system and it makes a
5 big difference. And I submit to you that's why we see so few
6 complaints by consumers who have experienced an out-of-service
7 condition.

8 Obviously in 1968 there, there was not competition.
9 There was not market discipline that could substitute for
10 regulation to Commissioner McMurrian's point earlier. It may
11 well be and probably was appropriate to establish those kind of
12 rules in 1968. But if we were doing it again today, given
13 where consumers are and given how much things have changed, we
14 wouldn't do it again today. So I'd respectfully submit that
15 times have changed and these rules need to change too.

16 **COMMISSIONER ARGENZIANO:** Mr. Chairman.

17 **CHAIRMAN CARTER:** Commissioner Argenziano.

18 **COMMISSIONER ARGENZIANO:** If I could just ask a
19 question. And you may be able to answer it because it's
20 outstanding in my mind and I'm wondering if it helped or not.

21 I remember back in 2004 when you asked for the rate
22 rebalancing and I think you got the highest increase that there
23 was in the state's history, if the rules were the same back
24 then, were you experiencing the same problems of today? And
25 did the, I guess the rate rebalancing help in any way or is

1 there additional problems since that time? Because it seems at
2 that time you asked for the rate rebalancing because, if I
3 recall, it was that you were providing services to residential
4 homes and it wasn't meeting the cost. And if the rules were
5 the same as they are today, were you experiencing the same
6 problems with increased competition then? And I'm wondering
7 why that didn't come up or what makes it different now if that
8 was an aid for you to help get those residential bills, the
9 costs taken care of, if I'm articulating it right. Do you
10 understand what I'm saying?

11 **MR. O'ROARK:** I'm not sure I do, and I'm maybe at a
12 little bit of a disadvantage because I worked for MCI at the
13 time.

14 **COMMISSIONER ARGENZIANO:** Oh.

15 **MR. O'ROARK:** But I'll still, I'll try my best, but
16 I'm not sure I quite get the gist of the question.

17 **COMMISSIONER ARGENZIANO:** Well, I think, I think, and
18 maybe someone else can answer this, but there was the largest
19 rate increase because of the reason that was presented to the
20 Legislature at the time, and then, of course, the PSC had to
21 deal with it, was that the cost to provide residential service
22 was, was just not cutting it. It was costing you more than
23 the, than you were getting back in return, and you got the rate
24 rebalancing. And the rules that are in play today with quality
25 of service were in play then. And I'm wondering, I never heard

1 that, these issues before, and I'm wondering how come they
2 weren't brought up then. Or did that, you know, increase help
3 you when it came to these issues as far as, you know, the cost
4 to provide the service to the residential customer? Maybe I'm
5 not articulating it very well. It's sure, sure clear in my
6 mind. Okay.

7 **CHAIRMAN CARTER:** It makes sense because that was one
8 of the, the perspectives given to the Legislature is that, you
9 know --

10 **COMMISSIONER ARGENZIANO:** Right.

11 **CHAIRMAN CARTER:** -- the cost of providing these
12 services and this was one of the considerations. I think
13 that's -- maybe you've got someone from your regulatory
14 department that was at the Legislature at the time when that
15 happened. It was only, what, four years ago?

16 **COMMISSIONER ARGENZIANO:** A few years ago. Right.

17 **CHAIRMAN CARTER:** A couple of years ago.

18 **MR. O'ROARK:** It may well be that one of my
19 colleagues can help bail me out here. The shortest answer is I
20 don't know. Maybe an elaboration on that is there are an awful
21 lot of things that go into the cost of providing local
22 telephone service, and it may well be that a number of those
23 other factors were paramount in folks' mind at the time. And
24 exactly where consumers were, you know, what their concerns
25 were in 2004, I don't know because I haven't looked at data.

1 But we, I think it is fair to say based on what we're seeing as
2 of the 2007 data that what consumers are concerned about is not
3 reflected at least in the rules, in the .070 rules that I've
4 just been talking about.

5 And what we're really, I think, doing with those
6 rules at this point is swatting at gnats with sledgehammers.
7 And the cost that goes into reporting on those rules, dealing
8 with those rules is no longer worth a candle, given what
9 consumers' concerns are today.

10 **COMMISSIONER ARGENZIANO:** And, Mr. Chairman, my
11 understanding of that, and I can appreciate that because you
12 must have a lot of customers who are looking for other things
13 that you're trying to concentrate on. But to the point you
14 just made, that was part of the question I was asking. You got
15 a very large increase to help you with providing some of those
16 costs, and I was wondering did they help at all in this area?

17 **MR. GREER:** Commissioner, this is Stan Greer with
18 AT&T of Florida.

19 The rebalancing was an effort to, to better align the
20 cost for local service as compared to the switched access
21 services type that we provide. We did not get all the way
22 through that process before it was changed. I think we made
23 two increases, if I recall right.

24 And to your question of did the competition, was the
25 competition there in '04? Absolutely. It was different than

1 it is today because today we have Comcast rolling out a lot of
2 the VoIP type services and those kind of things which don't
3 require a broadband connection. So is it different? Yes. Did
4 it help? I guess that's in the eye of the beholder whether or
5 not it helped or not. You know, we, we are still trying to
6 address market decisions that, you know, the cable providers
7 bring, the wireless providers that are now -- you know, the
8 packages for wireless are different these days, you know, the
9 VoIP services are different. And so, you know, we, we are
10 addressing and continue to address how to slow down the access
11 line loss that we see in our residential basic markets.

12 **CHAIRMAN CARTER:** Commissioner, let me recognize
13 Mr. Hendrix. Jerry, do you want to give a stab at it?

14 **MR. HENDRIX:** Sure. And I think Mr. Greer did an
15 excellent job. If you recall -- and I'm Jerry Hendrix with
16 AT&T. At the time that the rate rebalancing effort started
17 there were a few years before it actually took. And, yeah, and
18 the marketplace was greatly different. I was in Atlanta at the
19 time and was one of the people pushing it from Atlanta. It was
20 for two reasons: To better align the costs, but the other
21 reason was to ensure that we were able to bring access charges
22 down because we had a lot of service bypass issues happening at
23 the same time.

24 But at the time that we were granted relief the
25 market had changed and we were not able to fully implement the

1 rate rebalancing, as Mr. Greer mentioned. The three phases
2 that we had, I believe we only implemented, we actually
3 implemented two because the market was such that we started to
4 see access lines fall, we started to see access minutes take a
5 different turn and, as was mentioned earlier, you saw your
6 special access customers moving from switched access to special
7 access.

8 Now Mr. Gillan mentioned earlier if you look at the
9 growth in access lines, and he also mentioned special access
10 and switched access, well, switched access is what you and I
11 would use at home. Those are the basic access lines that we
12 would use in our homes. I don't know many end user residential
13 customers that have DS1s, the special access. That's what
14 carriers and other business customers may actually use. But I
15 think the focus of what we have here is largely res. And so,
16 yes, it helped us align the cost, it helped us to reduce access
17 charges. But the market was such that it did not warrant us
18 taking the third and final steps or in some cases for the other
19 companies two additional steps to fully rate rebalance.

20 **CHAIRMAN CARTER:** Commissioner Skop.

21 **COMMISSIONER SKOP:** Thank you, Mr. Chair. And thank
22 you to Commissioner Argenziano for, for raising that question,
23 and the discussion I thought was very healthy.

24 As I understand it from Mr. Hendrix, basically
25 rebalancing, the implementation of the rebalancing basically

1 resulted in lost market share. So you guys had to kind of
2 recede from that direction. And if I was correct or am I
3 correct, or perhaps Commissioner Argenziano or Mr. Hendrix can
4 give some clarity, at what point in time, was it 2004 or 2003
5 or '05 where that rebalancing went into actual effect to --
6 '04 to the consumers' bill?

7 **MR. HENDRIX:** I believe that's correct.

8 **COMMISSIONER SKOP:** And what I was -- the reason I
9 asked that was I was looking at on Page 5 of the original
10 presentation, ILEC line, access line losses, trying to gain
11 some perspective and appreciation to what may have changed.
12 And, granted, Commissioner Argenziano, with the rebalancing,
13 that was significant increases that were passed through and
14 probably encompassed the ability to provide service and some of
15 the other aspects that have been alluded to. But I'm looking
16 to see what significantly has changed in the market from the
17 implementation to date, and it seems like there is additional
18 competition there. And perhaps even the market may have,
19 market forces may have changed as new technology has rolled out
20 or new marketing offerings have come into play even in that
21 short time since the implementation. So to me it was looking
22 at that curve versus where the rebalancing went into effect
23 versus where we are now. I'm happy that we had this discussion
24 just to gain a little bit of appreciation because that was the
25 same thought that was running through my mind.

1 **CHAIRMAN CARTER:** Commissioner Argenziano.

2 **COMMISSIONER ARGENZIANO:** Well, yes. And to me the
3 biggest change at that time was then of course the legislation
4 passed to allow the cable companies, so to me that's the real
5 change. But, remember, it was historic amounts that were
6 passed, that were given also. So there's a -- you know, but I
7 needed to ask the question because it needed to be clarified.
8 I remember being in the middle of that and money was to go to
9 help them to provide, you know, what they weren't making up for
10 residential. So I guess -- and I think we have another answer.

11 **MR. McCABE:** I just want to make the point none of
12 the small rural phone companies were able to participate with
13 rate rebalancing. And so what we ended up having right now is
14 as our access minutes are shifting away to our wireless
15 providers, those revenues are disappearing and there was no
16 corresponding offset with increases in local rates.

17 **CHAIRMAN CARTER:** Commissioner.

18 **COMMISSIONER ARGENZIANO:** Just because we're on the
19 subject, what were the reasons you weren't able to participate?
20 Was it -- never mind. I won't go there.

21 **MR. McCABE:** I think it's because we're a small local
22 phone company.

23 **CHAIRMAN CARTER:** Commissioners, let me do this. I
24 want to kind of get us down to the -- we're in the trees right
25 now. I need us to get down to the weeds.

1 Staff, let me have staff give us kind of an overall
2 presentation so we can get into the, into the gravamen of the
3 case here in terms of, kind of give us a general overview as we
4 go through Item 2. As you know, Commissioners, it's a matrix
5 on the rule, and we can go there and pull out. And obviously
6 any discussion, if we want to have further discussion at any
7 time a question is appropriate, we can do that. But let's do
8 that. That will kind of put everybody on the same page.

9 **MS. CLARK:** Mr. Chairman, I forgot.

10 **CHAIRMAN CARTER:** Ms. Clark.

11 **MS. CLARK:** I think maybe if there are no other
12 questions of Dr. Taylor, we can let him off the phone.

13 **CHAIRMAN CARTER:** We should keep him on the hook like
14 everybody else. No. Just kidding. No. Commissioners, do
15 you, anything further for Dr. Taylor?

16 **MS. CLARK:** Thank you, Mr. Chairman.

17 Dr. Taylor, we appreciate you participating. This is
18 Susan.

19 **DR. TAYLOR:** Thank you very much and I will, I'll
20 hang up.

21 **MS. CLARK:** Thank you.

22 **CHAIRMAN CARTER:** Thank you.

23 **MS. KAUFMAN:** Mr. Chairman, I think that Mr. Gillan
24 would ask to be excused as well if we're done talking test and
25 getting into the weeds.

1 **CHAIRMAN CARTER:** Okay. He's not -- he's a trees guy
2 instead of a weeds guy. That's fine.

3 **MR. GILLAN:** These particularly.

4 **CHAIRMAN CARTER:** These particularly. Okay. Great.
5 Commissioners, with that, we'll just ask staff --
6 anything further before we go further?

7 **COMMISSIONER SKOP:** Just one quick.

8 **CHAIRMAN CARTER:** Commissioner Skop, you're
9 recognized.

10 **COMMISSIONER SKOP:** Thank you, Mr. Chair.

11 And just to Commissioner Argenziano's point that she
12 made, I do appreciate and fully recognize that that was the
13 rebalancing, that was a tremendous impact in terms of what
14 happened there. And, again, I was just looking at, you know,
15 what's changed since then or why that, along the same lines of
16 her question, why that wasn't reasonably anticipated to the
17 extent that the rules may have been ripe to have been brought
18 in the discussion back then or what has changed significantly
19 that warrants that relief now. So thank you.

20 **CHAIRMAN CARTER:** Okay. I guess, Dale, you're
21 recognized.

22 **MR. MAILHOT:** Sure. Thank you.

23 **CHAIRMAN CARTER:** I bet you didn't think I'd remember
24 that, did you? You thought I was going to say Sting, didn't
25 you?

1 **MR. MAILHOT:** Okay. If you would like, you know, if
2 the Commissioners would like to go through the individual rules
3 or sections of rules as they're grouped on the agenda that was
4 passed out.

5 **CHAIRMAN CARTER:** Okay. That will be fine.
6 Commissioners, it's a two-pager here that's got, one,
7 competition test, two is key rules that will apply, and then A,
8 B, C. Are we all on the same page?

9 **MR. MAILHOT:** Okay. I think maybe the easiest way
10 for everybody to follow --

11 **CHAIRMAN CARTER:** Easy is appreciated.

12 **MR. MAILHOT:** Behind Tab 6 of your notebooks is the
13 ILECs' presentation, and within that presentation there's a
14 yellow sheet, at least in ours.

15 **CHAIRMAN CARTER:** It's yellow in ours, too.

16 **MR. MAILHOT:** Okay. And then immediately behind
17 there what you'll find is it says Item 2, Rule Matrix.

18 **CHAIRMAN CARTER:** Uh-huh.

19 **MR. MAILHOT:** This rule matrix was put together by
20 the ILECs but it follows the outline or the agenda. So that if
21 you want to read or see any particular rules, the text of the
22 rule is there and the comments from the ILECs are in the
23 right-hand column.

24 **CHAIRMAN CARTER:** And this, Commissioners, this
25 section that we're currently in is the rules that will not

1 apply if the competition test is met. This will kind of give
2 us some kind of flavor there. And also as we go through it,
3 Mr. Beck, Mr. Kelly, Ms. Bradley and others will proceed and
4 obviously give us some opportunity for questions on that.

5 **MR. MAILHOT:** Thank you.

6 **CHAIRMAN CARTER:** But this particular section here,
7 thank you, is presented as the rules that would not apply if
8 the competition test is met.

9 **MR. MAILHOT:** Thank you.

10 **CHAIRMAN CARTER:** And let me just say as we proceed,
11 Commissioners, how do you want to proceed? Do you want to just
12 go on areas that you have questions about or do we want to take
13 it in, take it in toto? I think it would be better to take it
14 in toto if there's just a couple of areas of interest. What do
15 you want?

16 Commissioner McMurrin.

17 **COMMISSIONER McMURRIAN:** I was just saying however
18 it's easiest to proceed. I'm not prepared with certain
19 comments on certain rules or anything, so I --

20 **CHAIRMAN CARTER:** Okay. Why don't we recognize you
21 first and then we'll go from there.

22 **COMMISSIONER McMURRIAN:** No. I said I'm not prepared
23 with certain questions on certain rules.

24 **CHAIRMAN CARTER:** Oh, you're not.

25 **COMMISSIONER McMURRIAN:** I guess I want to wait and

1 see what the presentations are.

2 **CHAIRMAN CARTER:** See, Mr. O'Roark threw me off. He
3 says that he was in elementary school in 1968. I was 16. So,
4 Mr. Twomey, you know, I'm a card-carrying member of the AARP.

5 But let's, let's do this. Staff, let's kind of walk
6 us through it. And, and then as questions become available,
7 we'll go from there. Okay? Let's do that.

8 **MR. MAILHOT:** The first section or group of rules is
9 Section 2A in your agenda and these are what we commonly just
10 call the quality of service rules. It involves primarily
11 things like the answer time, trouble reports, the amount of
12 time it takes for, you know, to get customer service and those
13 sorts of things. And what I would suggest is if the company,
14 the petitioners or any of the other interested parties have any
15 comments on this particular group of rules, that, you know, you
16 might just kind of go down the line and ask if somebody wants
17 to speak about them in particular.

18 **CHAIRMAN CARTER:** And I think, Commissioners, this
19 was an area that there were some earlier questions on and this
20 is Section 2A on service rules.

21 Let's, let's do this. Mr. Kelly, would you like to
22 hear from the companies first and you guys respond that way?
23 Okay. Let's do that.

24 Ms. Clark.

25 **MS. CLARK:** Yes. Thank you, Mr. Chairman.

1 We have provided you with a matrix and then in the
2 right-hand column we have given you explanations of why we
3 think that these are not appropriate in a competitive market.
4 Let me just kind of run through them quickly.

5 The first, of course, is periodic reports that have
6 to be filed. No other companies have to file these reports.
7 And that's not to say this information or type of information
8 on service would not be available when asked. It's just the
9 notion of having to file those reports on a periodic basis.

10 Looking at the report of interruptions -- and to some
11 extent I'll give you what I think is a recap of the workshop we
12 did have. As I understand it at least for 0185, my notes say
13 that CompSouth had no objection as long as there wasn't an
14 impact to the SEEMs or the wholesale issue. And we have
15 addressed that by saying, no, they're not intended to affect
16 that SEEMs issue in the wholesale market.

17 Looking at report of service interruptions, again, no
18 other companies have to file this report. And, frankly, the
19 way service is provided now, sometimes through fiber optics and
20 things like that, it's not always clear when you have, say, a
21 cut how many customers are affected. And we did have a
22 discussion on what the FCC required, and the FCC regulations
23 specify that wireline company providers must electronically
24 notify the FCC within 120 minutes of discovering outages and
25 then it lists the criteria.

1 Our position would be that, you know, we comply with
2 the FCC. We'd be happy to file that with you all or make it
3 available. And I think that was staff's concern at the time of
4 the workshop. Stan, did you want to add something?

5 **MR. GREER:** Yes. Commissioners, Stan Greer with
6 AT&T.

7 Essentially on the FCC report we provide that report
8 to the, to the FCC as confidential, and so I'm -- I try my best
9 to make sure that if there's a major service outage, that the
10 staff is well aware of where it's at generally and try to, I
11 hate to use the word skate around the confidentiality, but, but
12 try to make it clear enough where the impact is so that the
13 staff is aware. I do not file that document with the
14 Commission mainly because the fact that it's confidential, I'd
15 have to ask for it confidential, and it defeats the purpose of
16 the Commission's efforts to let their consumer folks know when
17 somebody calls in, "I've got an outage." So I would hesitate
18 to file that information with the Commission. But I don't have
19 a problem with trying to, as I always try to do, let the staff
20 know if there's a major outage issue. But as Ms. Clark
21 indicated, we're the only ones that file that report or provide
22 that information as best as I know, the ILECs.

23 **MS. CLARK:** (Inaudible. Microphone off.) This,
24 again, does not apply to other competitors in the market and we
25 think it's not needed in a competitive market. If companies

1 don't provide acceptable arrangements to provide service,
2 customers will go elsewhere.

3 Again, I think our point is the focus should be on
4 what customers, what satisfies the customers, not artificial
5 standards. And I think you heard from Tom McCabe in a
6 comparison of standards in Georgia and standards in Florida,
7 illustrating to me that there is no magic time limit. And to a
8 large extent it depends on the customers, the demographics and
9 the geographics of where you serve.

10 **MR. McCABE:** I'd just like to make one comment. Just
11 with -- we developed as a company-wide policy that any new
12 install that has DSL service is going to be five days. And the
13 reason why we did that is because we ship all of our modems out
14 of Madison, Wisconsin. So we took the worst-case scenario. I
15 mean, we've got property in the bottom of the Grand Canyon,
16 property on an island off the coast of Maine. So we took the
17 worst-case scenario in terms of how long it might take us to
18 have a modem shift to those customers. We can do things
19 different. I mean, we can -- but we don't want to. I mean, we
20 don't want to have to issue two service orders on things of
21 that nature and we want to be consistent because it's more
22 efficient for us to do that across the country than to have
23 something separate for Florida, and at this point right now
24 that's what we're doing in Florida on any new account with DSL.

25 **MR. GREER:** Commissioners, this is Stan Greer with

1 AT&T. And it just dawned on me, you know, we filed this
2 document, we filed the petition prior to the Legislature's last
3 session, and come January 1 there's not really a carrier of
4 last resort obligation. That's not to say that we will not
5 provide service to everybody, but the availability of service
6 and the percentages of that kind of thing, I'm not for sure in
7 the post-January 1 next year time frame that makes sense in a,
8 in a, in a going-forward basis.

9 **MS. PERRY:** Mr. Chairman, this is Gail Marie Perry
10 with the Communication Workers.

11 **CHAIRMAN CARTER:** Ms. Perry.

12 **MS. PERRY:** I want to set myself right in how we're
13 organizing this. Are we -- is, is everybody going to
14 individually go through the whole list or are we going to
15 comment individually on each one as we go through or are we
16 going to go through a couple and then, and then go back and
17 comment or -- I want to know where I am and then I do have
18 something I want to say.

19 **CHAIRMAN CARTER:** That's a legitimate question.
20 Here's where I want us to be is I want -- staff had given a
21 general overview. We wanted to have some comments on different
22 areas. I mean, obviously someone may want to comment on
23 everything, which I don't, I don't, I don't feel like that's
24 appropriate, but some people may do that, and give us an
25 opportunity on the areas of disagreement, we could talk about

1 it, as well as then have an opportunity for those of us here on
2 the bench to make our inquiries. That's what my plan was, and
3 I hope that everyone understands that's what my plan was.

4 **MS. CLARK:** I take it I should pause after each one
5 and let you move down the line to see if there are any
6 questions or comments.

7 **CHAIRMAN CARTER:** I think you've taken us through to,
8 I want to say through the availability of service; is that
9 right?

10 **MS. CLARK:** I did, sir. 4.066.

11 **MS. PERRY:** .066.

12 **CHAIRMAN CARTER:** I beg your pardon?

13 **MS. PERRY:** I think her last comment was on 25-4.066.

14 And I --

15 **CHAIRMAN CARTER:** The availability of service. Yes,
16 ma'am. And let me do this though now that we've gone there,
17 I'm going to go to, I want to go to, to the other parties.
18 Mr. Twomey, you're recognized. Then we'll go to Ms. Kaufman
19 and then, Mr. Kelly, then I'll come to you. Okay?

20 **MR. TWOMEY:** Mr. Chair, if, if you would be
21 agreeable, I'd prefer to go last because --

22 **CHAIRMAN CARTER:** Excellent.

23 **MR. TWOMEY:** -- I have the least amount of expertise
24 in this and I'd like to hear what these folks have to say
25 first. And then if I have a position, I'll say it. If not,

1 I'll keep my mouth shut.

2 **CHAIRMAN CARTER:** We'll let you go last, but we know
3 it's not because you have the least amount of expertise. We
4 just --

5 **MR. TWOMEY:** Close.

6 **CHAIRMAN CARTER:** Okay. Well, thank you.

7 Ms. Kaufman, we're just dealing with those first
8 three areas that we've gone through.

9 **MS. KAUFMAN:** Thank you, Mr. Chairman.

10 I just have one comment for this entire section. So
11 if you want me to do it now, I'll be glad to.

12 **CHAIRMAN CARTER:** When you say this entire section,
13 you mean?

14 **MS. KAUFMAN:** 2A that we're on now.

15 **CHAIRMAN CARTER:** Okay. Well, let's hear it. That's
16 good.

17 **MS. KAUFMAN:** And my comment is to say that, as
18 Ms. Clark mentioned, our concern with these rules is that some
19 of them are tied to the SEEMs plan. And as you recall, when
20 you dealt with some of the rules that were noncontroversial at
21 the last agenda, we had some language, we suggested some
22 language to include in the notice, which you all did include,
23 to just say that nothing that you do as to these rules is going
24 to impact the SEEMs plan or any sort of data that needs to be
25 collected.

1 If it hasn't been clear, and I think it has, but
2 CompSouth's position is not to try to impede any kind of
3 streamline regulation but simply to make our points in regard
4 to part one of our day here today which had to do with the
5 test. For the most part, with a few exceptions in some
6 sections we haven't gotten to yet, we don't have an issue with
7 most of the changes that are being suggested. Our issue is
8 with the test that is being proposed. And then if we are sure
9 that none of these changes will impact SEEMs, then our concerns
10 will be taken care of. It's the, the competition test that
11 gives us the greatest concern and that we've already discussed
12 at some length.

13 **CHAIRMAN CARTER:** Okay. Mr. Konuch.

14 **MR. KONUCH:** Mr. Konuch from FCTA. We have a concern
15 with just one of the rules in the service rules section. And
16 we haven't, we haven't gotten to that one, I guess. We're
17 still on availability of service. But this is the one I
18 mentioned earlier about the PC freezes. And our concern with
19 that one -- I know Mr. O'Roark mentioned a lot of these rules
20 date from the Johnson Administration. However, the rule --

21 **CHAIRMAN CARTER:** He was a good president.

22 **MR. KONUCH:** Right. Right. The rule on PC freezes
23 was just from the late, late '90s, early 2000 era. And I
24 remember specifically why that rule was enacted and why it came
25 into being. And the reason was it was a direct result of a

1 marketplace problem, and it was the result of competition
2 itself and the beginning of competition starting. And what it
3 was intended to address was the unauthorized switching of
4 carriers and cramming of service. So it's a rule designed to
5 police the marketplace. The rule existed because competition
6 was starting, not as a result of a monopoly.

7 And, you know, to, to I guess address what
8 Commissioner McMurrian posed as a question earlier today, if
9 you were starting from scratch and you had the, the amount of
10 competition that we have today or the marketplace and the
11 technology the way it looks today, would you still need this
12 rule? Yes, you would. Because even with the federal
13 protections in place the state rule is different enough from
14 the federal rule that you would, you would still need a rule
15 like this. And there would be a lot of confusion among
16 marketplace participants if you were able, or if this
17 particular rule were removed, and I'm speaking of Rule
18 25-4.083. So there's enough difference between the federal
19 rule and the state rule that this one, we believe, really is
20 important.

21 We, we believe that if someone wanted to, they could
22 place PC freezes in place and then tariff a charge for removing
23 them and that could be anticompetitive. And there's just,
24 there's enough potential for anticompetitive activity and
25 gaming of the system that this rule should stay. It affects,

1 as I mentioned earlier, the seamless ability to switch between
2 providers, and I think that's something that this Commission
3 has to, has to always keep in mind whenever we're addressing
4 any of these rules. Because that, that's really what enables
5 competition to flourish if you can, if you can seamlessly go
6 between providers.

7 And that, that was the only rule in this section that
8 we had a comment on. We don't really see this as a service
9 rule per se, quality of service. It's more a prescriptive rule
10 as you should do this or you shouldn't do this because it, it
11 affects competition.

12 **CHAIRMAN CARTER:** Thank you, Mr. Konuch.

13 Let's do this so we can -- Mr. Kelly, as I come to
14 you and Mr. Beck, let's -- any of these issues in Rule 2A,
15 we'll just go through that. And that way we'll have -- and
16 just for -- Ms. Clark, what we'll do as we proceed further,
17 like when we get to 2B, I'll just ask you for a general comment
18 and we'll go from there because we're --

19 **MS. CLARK:** Other than going rule by rule?

20 **CHAIRMAN CARTER:** Yes. Because it's like a Ping-Pong
21 ball or game right now and we're just not really making any
22 progress.

23 **MS. CLARK:** Okay. Got you. I'm all about
24 facilitating this.

25 **CHAIRMAN CARTER:** Okay. Mr. Beck, you're recognized.

1 **MR. BECK:** Mr. Chairman, thank you.

2 Just some brief comments overall in 2A. I think
3 these service rules largely define what people have received
4 and expect to receive from telephone service. They deal with
5 parameters such as how quickly do the phone companies have to
6 repair lines that are out of service or are not working
7 properly, how quickly do they answer the phone? We've seen
8 nothing that would say that you should just get rid of these
9 rules at all. In fact, if you look at some of the trends,
10 we're very concerned that if you completely did away with these
11 rules, what you would see is a degradation of the quality of
12 the service that's being provided today. We've given you
13 earlier an example of Verizon.

14 In 2001, for example, in the, on the repair service
15 they, they were largely meeting all the Commission's rules on a
16 statewide basis, they were surpassing that, and by 2007 they
17 were almost uniformly failing the Commission's rules on this.
18 We think that if you did away with these rules, that these
19 portend bad trends, that you might see these statistics get
20 even worse from the companies if you simply let them go and
21 have no standards. So we are opposed to, to letting go of
22 these rules and having, not having these standards that largely
23 define what people have for phone service.

24 **CHAIRMAN CARTER:** Commissioner Argenziano.

25 **COMMISSIONER ARGENZIANO:** Could I just interrupt for

1 a minute?

2 **CHAIRMAN CARTER:** You're recognized.

3 **COMMISSIONER ARGENZIANO:** I think we need to
4 congratulate our colleague for her reappointment. It's just
5 been announced. So congratulations.

6 (Applause.)

7 **CHAIRMAN CARTER:** Commissioner Edgar, you're
8 recognized.

9 **COMMISSIONER EDGAR:** This may be one of the only
10 times that I am almost speechless, almost. Thank you all for
11 your support and for your understanding while I've been kind of
12 up and down today. I am very, very, very excited to continue
13 to work on these issues for the next four years. Thank you
14 very much.

15 (Applause.)

16 **MS. CLARK:** Mr. Chairman, I had indicated --

17 **CHAIRMAN CARTER:** You don't want to congratulate her?

18 **MS. CLARK:** What?

19 **CHAIRMAN CARTER:** You don't want to congratulate her?

20 (Laughter.)

21 **MS. CLARK:** Oh, no, no. Absolutely.

22 Congratulations.

23 I just had a concern that we now, this is our second
24 workshop that we've been through and we've put our positions
25 out there and suggested why they were not needed. And I think

1 the Commissioners have had very good questions about, you know,
2 we need to get to the meat of each rule and why they're needed
3 and why they're not needed. And it is a concern to me that we
4 are yet here again and we hear general comments back from the
5 parties about the rules without any real discussion of the need
6 for these rules.

7 And I, and I stated previously that it shouldn't be,
8 you know, tell us why you don't need the rules anymore. And it
9 goes back to the point I think Commissioner McMurrian made, we
10 are in a very different environment and the question should be,
11 given that environment, do we still need these regulations?
12 And I would hope to hear from my colleagues at the end of the
13 table why these are necessary to protect the people they
14 represent.

15 And let me just go to the PC freeze, for example.
16 What has not been said is Mr. Konuch's group is not subject to
17 the PC freeze that's applicable to his other competitors in the
18 market. He is, as I understand it, subject to the FCC PC
19 freeze. I would like to understand what is different in this
20 requirement that he finds needs to be applicable to the people
21 he competes against but not to him? And to that extent, I
22 understood a workshop to be sort of a two-way street so we
23 could hear what the concerns were and respond to them.

24 **CHAIRMAN CARTER:** It's actually more like an
25 interstate highway. We've got all kind of exits and

1 cloverleaves and all.

2 Mr. Konuch, first of all, I've been calling, I've
3 messed up your name all day and I sincerely apologize to you
4 for that. If you can help me with the correct pronunciation,
5 I'll imitate it.

6 **MR. KONUCH:** Sure. It's Konuch like the Canadian
7 hockey team. And don't worry about it. As my wife says,
8 "Aren't you tired of no one ever getting it right ever?" No
9 one can pronounce it, so it's not a problem.

10 But I would like to specifically respond to the rule
11 as to the PC freeze. And --

12 **CHAIRMAN CARTER:** That's on Page, Commissioners, in
13 the matrix on Page 7 of 27, at the bottom of the page,
14 25-4.083. Is that correct?

15 **MR. KONUCH:** I'm trying to actually find it.

16 **CHAIRMAN CARTER:** And, Mr. Kelly, I'll come back to
17 you and Mr. Beck. Just as he's looking for that, in the
18 meantime what I'd like to do, when I come back to you, we'll go
19 and see the specific areas that you would like to address so we
20 can do that. Give you that, we'll give you that courtesy.

21 **MR. KONUCH:** Sure. Well, it would be pretty -- I can
22 respond to it fairly quickly if it might help to move things
23 along. But I will defer -- well, if you'd like me to, I can --
24 I found it.

25 **CHAIRMAN CARTER:** Okay. You're recognized.

1 **MR. KONUCH:** Sure. The reason this is of particular
2 importance to us is because we, we are the new competitors in
3 the market and every customer that we get for the most part
4 started out as an ILEC customer. So we started basically from
5 zero, and we're doing okay in the residential market and we
6 reported in the most recently, most recent competition report
7 throughout the State of Florida we had around 700,000 total
8 customers residential. But every, every one of our customers
9 started out as an ILEC customer. So something like this
10 involving PC freezes, it would theoretically be possible to
11 place PC freezes on the accounts of all of the ILEC customers
12 without their consent and authorization if this rule were
13 removed. There would be certainly an argument that you could
14 place a PC freeze on everybody's account without their consent.
15 Well, if that were to occur, then we wouldn't be able to switch
16 any customers over to cable telephony.

17 So we don't think any of our brethren at the other
18 end of the table would actually do that, but I wouldn't be
19 doing my job if I just said, oh, yeah, I'll just trust you that
20 that's not going to happen. And, you know, that's not all the
21 companies in the state either. There, you know, there are
22 other companies. But my point is that it's possible to game
23 the system in a way that would prevent us from getting any new
24 customers if this rule were repealed.

25 **CHAIRMAN CARTER:** Commissioner McMurrian.

1 **COMMISSIONER McMURRIAN:** Thank you. From what
2 Mr. Konuch was just saying, I just want to make sure I
3 understand. And you said earlier there was some difference
4 between the federal and the state PC freeze requirements. Is
5 it true that the federal requirements wouldn't prevent the
6 situation that you were just talking about? That, I mean,
7 could, in other words, could under the federal rules, if we
8 weren't, if we did not have the state rule, could a company put
9 a PC freeze without the customer's knowledge across the board?
10 Is that what you're saying?

11 **MR. KONUCH:** Without the federal rule, because the
12 jurisdictions are different, there would be some question as to
13 whether that would be lawful conduct or not. So it would be
14 something that we might have to litigate if somebody did it.
15 And rather than do that, I think the rule should stay in place.
16 If you remove it, you end up with confusion over what the rules
17 of the road are.

18 Also, even if you were prohibited from putting a
19 PC freeze on every customer, the Florida rule is different in
20 that it prohibits you from charging for removing the PC freeze.
21 So that's another way that one could do it. One could tariff a
22 high charge for removing a PC freeze. And we thought there was
23 enough leeway there between the federal rule and the state rule
24 that it would cause a lot of confusion and it possibly would
25 open the door to problems that we don't want to see happen in a

1 competitive marketplace. And it doesn't really have anything
2 to do with service quality, it has to do with things that the
3 competitive market can't get at.

4 You know, theoretically one could use, use the
5 ambiguity that would be created if this rule were gone to shut
6 the door on further competition, and that's what we're worried
7 about and that's why we oppose getting rid of this particular
8 rule.

9 **COMMISSIONER McMURRIAN:** Can I ask one more
10 follow-up?

11 **CHAIRMAN CARTER:** You're recognized.

12 **COMMISSIONER McMURRIAN:** Thank you, Chairman. I know
13 we're trying to move along and I keep slowing us down.

14 **CHAIRMAN CARTER:** No. You're recognized. You take
15 your time.

16 **COMMISSIONER McMURRIAN:** I think Ms. Clark was saying
17 that your company didn't have the same requirements on it and I
18 think that's true of probably most of these rules. But I
19 wanted to give you a chance to respond to that. Do customers
20 who have cable telephony, do they have an automatic PC freeze?
21 Do they have the ability to have another long distance carrier
22 or not? I mean, how does, how does that apply to your
23 customers? I mean, I know the rule doesn't apply, but how,
24 what in practice, what's done on the cable side?

25 **MR. KONUCH:** I'm not really sure how each of our

1 particular companies handle PC freezes, but typically -- so I
2 would, I would have to poll the individual companies and talk
3 to them. It's not something that we would, you know, conduct
4 that we would ever engage in. But my point is that, you know,
5 the proposal that is before the Commission is to get rid of
6 this rule and it's something the ILECs have proposed. And for
7 each of these proposals there are, you know, maybe 70 of them
8 in total. I've gone through each one and tried to figure out
9 is there any chance that this particular rule proposal could
10 throw a monkey wrench into the competition that exists today,
11 and there are very few that we've highlighted as possibly doing
12 that, but this is certainly one of them.

13 **MS. CLARK:** Mr. Chairman, I would just point out on
14 this rule, here was our suggestion. There is a statute that
15 requires the Commission to adopt rules on this issue but our
16 concern was having different rules. And what we suggested was
17 because the statute requires the Commission to adopt rules, the
18 PSC should incorporate by reference the FCC rule and note that
19 a preferred carrier freeze must be established at no charge.
20 Given that's our proposal, I don't understand that there should
21 be an objection to that.

22 **CHAIRMAN CARTER:** What says you, Mr. Konuch?

23 **MR. KONUCH:** Well, I think that may not have been the
24 original proposal, but that's certainly a compromise I think
25 our, our group could, could live with. I mean, the issue for

1 us is if there are no rules, the question comes up, well, does
2 the federal rule apply? If it's, if it's made explicit that
3 the federal rule does apply, then the problem would appear to
4 go away. So I think that is something that we could live with.

5 **CHAIRMAN CARTER:** Okay. Commissioner McMurrin,
6 anything further?

7 **COMMISSIONER McMURRIAN:** No. That was helpful.
8 Thank you.

9 **CHAIRMAN CARTER:** Okay. All righty. So we've got
10 that.

11 Let's do this, Mr. Beck, Mr. Kelly, this Section A
12 dealing with service rules, any one in particular you want to
13 zero in on as we get to the discussion? And, Commissioners,
14 I'll come back to you after we've heard from the parties in
15 Section A.

16 Ms. Bradley, I'll come to you after -- I'm going to
17 go to Ms. Perry after Mr. Beck and then I'll come to you. You
18 can be cleanup batter.

19 **MS. BRADLEY:** I think Mr. Twomey is the cleanup
20 batter.

21 **CHAIRMAN CARTER:** Oh, Mr. Twomey is the cleanup
22 batter. Okay. We'll go to Mr. Twomey at the end.

23 Mr. Kelly.

24 **MR. KELLY:** Thank you, Mr. Chair. If I could,
25 indulge me just for a couple of seconds with some general

1 comments.

2 I'd like to say that, first off, the petition was
3 filed in this to set up a market test for the companies to be
4 able to get out of complying with any of the service quality
5 rules, whether you want to call it an exemption, competition
6 test, whatever, the bottom line was to get out of complying
7 with any of those rules, and there was never any offer, if you
8 will, of some kind of fine-tuning of the standards.

9 Secondly, I think that we argued earlier today that we don't
10 believe there is comparable competition. We won't rehash that.
11 But let's assume for argument's sake that you believe there is
12 competition or some type of competition. I'm going to go back
13 to what I asked earlier. If that's the case, then why? Why
14 has service of quality gone down over the past few years based
15 upon the reports submitted to your office to your staff
16 quarterly? Okay.

17 I don't have an answer for that. But the bottom
18 line, if you are going to argue to me that competition will
19 drive quality up, okay, why doesn't the evidence support that?
20 If it is your desire as the Commission or staff to fine-tune
21 some of these quality of service standards, we are certainly
22 more than willing to look at that and discuss that, okay. But
23 we firmly, firmly believe that you should not just with the
24 stroke of a pen, if you will, do away with the quality of
25 service standards that your rules have set up for the

1 consumers. Because as Mr. Beck said earlier, we believe that
2 the quality of service has been going down recently, again,
3 based upon the evidence submitted to your office and to your
4 staff, and it will continue to go that way.

5 So we don't have any specifics to address these. I
6 think that Mr. Beck addressed it, and I will leave those
7 comments general. If you have specific questions, I will try
8 to answer them. But that, Mr. Chairman, Commissioners, is our
9 position. Thank you.

10 **CHAIRMAN CARTER:** Thank you, Mr. Kelly. As always
11 it's a pleasure to hear from you.

12 Ms. Perry, you're recognized.

13 **MS. PERRY:** Congratulations.

14 **COMMISSIONER EDGAR:** Thank you very much.

15 **CHAIRMAN CARTER:** We will dealing with 2A, all of the
16 service rules that we are talking about.

17 **MS. PERRY:** I'm very excited to be here, because I
18 know that our industry is growing and we're about to, in
19 January, move to the data age in America. So I know what we
20 are doing here is very important to not only my members, but
21 the consumers of Florida. And I think you have been tasked by
22 the Legislature to oversee the industry in behest of the
23 consumers and making sure that it's fair for the industry, as
24 well.

25 I take a different look at what I consider landline

1 service, the backbone of the telecommunications industry. And
2 even with the papers that I passed out to you earlier showing
3 you the local exchange companies, the CLECs that actually
4 resell the local exchange companies, and VoIPs that actually
5 deliver a phone call on the local exchange companies. So we
6 believe that that backbone is very important to the citizens
7 here in the State of Florida.

8 Under Number 2, you know, I have to say to you
9 something that being a steward for my members, that I represent
10 them before the management, if the rules are too harsh, and we
11 are not meeting it, then maybe there needs to be a change in
12 the rule. If the fines are too high and it's impeding
13 competition, maybe that needs to be changed. If they are not
14 meeting 90 percent answer times, maybe it needs to be changed
15 to 60 percent. But to throw it all out is not in the best
16 interest for the consumers, because they believe, I believe,
17 that you're the trustees of the backbone of communications in
18 the state of Florida. And some of the things that are listed
19 here, periodic reports, maybe they don't need to do them
20 quarterly, maybe once a year. Interruptions of service. Now,
21 it talked about fifty thousand or a thousand more. Well, you
22 know, if there is a terrorist whatever, you know, wouldn't it
23 be nice that the state of Florida knew there was something
24 happening already because communication is knocked out, or if
25 they're having problems in this one area where it does affect

1 thousands of customers, maybe if there is a fine, maybe there
2 shouldn't be a fine. They just should just let you know that
3 it is happening so you can let the citizens know maybe through
4 a news report or something.

5 If the fines and the numbers are too heavy on
6 competition then maybe that needs to be changed. But to do
7 away with oversight of maintenance, oversight of maintenance is
8 maintenance of the backbone. If you find that maybe in a
9 yearly report rather than a quarterly report that they had
10 thousands of people complaining about the maintenance in a
11 certain area, maybe that needed to be replaced and taken a look
12 at. So it might be, you know, the low income area, or the area
13 that floods all the time, or just as everyone has been saying,
14 the old wiring in the ground might need to be changed. How are
15 you ever going to know that, how are you ever going to know
16 that you need to maintain that backbone for the consumers if
17 you don't ever get any kind of report on it?

18 So, again, I don't know if we're going
19 individually -- if five days -- maybe you need to look at the
20 other states and look at some type of graph to show what's
21 happening in the other states. Mr. Twomey mentioned a matrix.
22 Maybe take a look at a matrix and see what is happening or what
23 the real numbers are. We really don't have any numbers except
24 for the changes in losses and service. So if we are looking
25 at -- I mentioned maintenance. Trouble reports goes right into

1 maintenance. I know someone here had mentioned, well, they
2 only had -- let's see, I think I wrote some of the figures
3 down.

4 He said that he had a couple thousand people that,
5 you know, they had met, and 1,000 they hadn't met, and they
6 only got three complaints. Well, that is only three people
7 that went higher. I can tell you those customers are calling
8 your business office, and they might be complaining every day,
9 but they haven't gone that step higher to the boss', boss',
10 boss', boss, but they are complaining. I can tell you they are
11 complaining. They are calling the business office every day.
12 When it is a problem with repair, they are calling that repair
13 every day and saying, "Hey, what's up?"

14 I'm trying keep within A. Answer times. I know --
15 almost everyone I know, including young people, does not like
16 to get a recording, press this, press that, press this, then
17 press that, goodbye. I don't know, I only know of two people
18 who have said I like that. I can get on with my life. Most
19 people forget to listen in the middle of press 3 or press 4 and
20 they don't even know what they are supposed to press now and
21 they are stuck. They are stuck in never-never land somewhere.

22 So, the answer times, maybe they are keeping people
23 in a job, but is it impeding competition to the point where you
24 have to do away with the answer times? I go back to that
25 person that's on their phone at break time trying to get their

1 bill corrected, or trying to get a new installation, or, you
2 know, I mean an hour is an hour, 15 minutes is 15 minutes.
3 Maybe the answer times don't need to be 30 seconds. Maybe it
4 needs to be "Your wait time is seven minutes." I mean, I think
5 customers feel better with that than they do press 5, 6, 9, 10,
6 11.

7 **CHAIRMAN CARTER:** I always press zero.

8 **MS. PERRY:** Me, too. That doesn't work everywhere,
9 though, I find. Sometimes if you press zero it's, "Goodbye."

10 I think I have got -- intercept of service. I know
11 with my business customers that's a necessity. You know, they
12 move to a new area, their phone number is not available. The
13 intercept is their lifeblood for their old customers. But it's
14 the same thing for residence people. They move to a new area,
15 all their relatives up north, out west, in the middle of the
16 country. You know, even though it's just a month for residence
17 service, the guarantee of an intercept to say, hey, the new
18 number is, or, hey, the service is interrupted, or the service
19 is disconnected. I think that's very important to our
20 customers. As somebody who takes phone calls in regards to
21 that, I know it is important to our customers.

22 The freeze. You know, everybody is saying -- and I
23 know that the carrier of last resort is going away, and I think
24 I mentioned that last week. The carrier of last resort is
25 going away, and we are going to depend on the federal carrier

1 of last resort. And it was mentioned in regards to
2 25-4.023 that the interruption of service -- that the FCC, they
3 can do it electronically. The citizens in Florida have a hard
4 enough time calling the state to complain. Do you know how
5 drowned out their voice will be if the only place they have to
6 complain is the Federal Communications Commission that has to
7 take hundreds of thousands of calls before they even take some
8 kind of action in these United States?

9 So I guess I ask you again that -- I feel the
10 Legislature, even without the carrier of last resort, has
11 tasked the Public Service Commission to be the keeper of the
12 backbone of communications in Florida. And if we had
13 full-fledged competition, again, I point out my list, there's
14 the local exchange, there's the CLEC who sells the local
15 exchange service, and there is some CLECs that might have a
16 switch, but not a whole network. A switch is different than a
17 whole network in the ground.

18 We were very worried back in '95 that, you know,
19 there would be hundreds of lines in people's backyards. Well,
20 that never happened. That never happened. We were very
21 worried about it. That every other day your backyard would be
22 dug up for a new company to put a line in. None of that
23 happened.

24 We are excited about the digital, again, I have to
25 say, because that might make some of it happen. But I ask you

1 to be that keeper entrusted with the backbone of the
2 communications network. And when you make your decision,
3 please look at these rules. If we totally do away with these
4 rules, will that maintain the backbone or will that be a
5 degradation to the backbone. And I think that's very important
6 to the consumers. And I guess I'll try and be quiet.

7 **CHAIRMAN CARTER:** Thank you so kindly.

8 Ms. Bradley.

9 **MS. BRADLEY:** Thank you, sir. And we would also
10 extend our congratulations to Commissioner Edgar on her
11 reappointment.

12 I wanted to address the rules dealing with service
13 interruption and service repairs. We think those are truly
14 vital rules. While it may be an annoyance to a lot of people
15 to be without a phone for an extended period of time and others
16 on vacation, especially, may welcome it, but to a lot of people
17 you are talking about cutting off their link to the outside
18 world and their connection to vital services. And so an
19 interruption can be a very serious thing. Not just mentally,
20 but physically to a lot of people. And so we think that's
21 certainly a rule that needs to be preserved.

22 There has been a lot of complaints here today about
23 it not being fair that other people are not regulated as much
24 and this kind of thing, and I have to admit I was rather
25 surprised by that. And Commissioner Argenziano's reminder

1 about the rebalancing bill kind of brought back some of those
2 memories, and I couldn't help but remember how enthusiastically
3 that rule was advocated by many of the companies that are here
4 today, and the fact that one of the provisions of that bill was
5 a disallowance of regulation of VoIP.

6 And then about a year ago they were back advocating
7 for another rule, another statute that essentially deregulated,
8 to some extent, cable television. So it is kind of surprising
9 that after advocating for rules that decrease regulation that
10 they would now come in and complain about that very, you know,
11 disturbance that they find now between those companies not
12 being regulated.

13 It's interesting that they are complaining. And if
14 you remember the first workshop or meeting we had on these
15 rules, comments were made, well, what do you think, if you take
16 away the rules that we won't comply? Well, we are seeing a
17 decrease in compliance by some of these companies. A steady
18 decrease even with the rules. And, yes, that would indicate
19 that without the rules they would not comply even worse than
20 they are today, because there would be no penalty or no fines
21 they would have to pay if they didn't have to.

22 We think that speaks very strongly about what would
23 happen without these rules. And these rules, as we have
24 indicated, are very important. I have to note that we have at
25 least one company here that is in compliance. We have had

1 others that have been in compliance and now are not. We have a
2 couple of companies that have service guarantee plans, and it
3 would seem like if somebody really was that much against the
4 rules they could avoid a lot of this by just entering into a
5 service guarantee plan with their customers.

6 Now, while we might wish those were stronger and that
7 some of the companies were might not paying as much, we are
8 mindful that at least one has shown an improvement during the
9 past year and we would like to encourage the others to join
10 them in that decreased payment to customers because they are
11 more in compliance. And that certainly, though, would be a way
12 to avoid these rules if they are that strong against them.

13 I guess the only thing I would note is that -- I was
14 trying to read my note. That's terrible. Oh, somebody
15 commented about the fact of the lack of complaints. And I was
16 rather surprised by that, as well, because obviously the FTC is
17 getting a lot of complaints. You only have to go on the
18 Internet to see the number of complaints that are being made
19 sometimes about service quality. So I'm not sure who they are
20 talking to, but obviously there is other people that would
21 disagree with that because they are making their complaints
22 very vocal.

23 Because of all of these factors, we would also,
24 again -- and I don't mean to pick on one particular company,
25 but since they have brought this up, we couldn't help but

1 notice that a company like Verizon, who has -- almost
2 80 percent of their customers are on copper, have decreased
3 their customer service folks down to 1200 while their FiOS,
4 which is a small amount of their customers, has gone up to
5 nearly 1500 customer service agents. That seems to reflect a
6 decreased attention to the landline over the FiOS. And we
7 understand that some of that can be accounted by the fact that
8 they have to spend more time because they are not just talking
9 about phone, they are talking about TV and Internet. But to
10 have that big a difference kind of indicates that there is not
11 the attention that needs to be. And that is emphasized by the
12 decrease in compliance that we are seeing over the last
13 reports.

14 So we would encourage the Commissioner to keep in
15 place these rules which provide such an important benefit to
16 customers and will make sure that there is compliance in the
17 quality of service that our customers deserve. Thank you.

18 **COMMISSIONER EDGAR:** Mr. Twomey, were you next?

19 **MR. TWOMEY:** As soon as she --

20 **MS. BRADLEY:** Moves.

21 **MR. TWOMEY:** -- makes way.

22 Thank you, Commissioner Edgar, and I would be remiss
23 if I didn't offer my congratulations on your reappointment
24 personally and on behalf of AARP, as well.

25 AARP adopts Public Counsel's comments both by J.R.

1 Kelly and Charlie Beck, as well as the comments made by Ms.
2 Bradley on behalf of the Attorney General.

3 The industry has presupposed repeal of all of these
4 rules on the assumption that you would approve their
5 competition test. We deny there is effective competition or
6 effective comparable competition, just as you have heard the
7 Public Counsel deny it, as well.

8 Ms. Clark said a few moments ago that she thought
9 there should be more specifics from the customers on why we
10 want individual rules to be retained. And yet, as I just said,
11 the industry presupposed their repeal of the whole kit and
12 caboodle on the assumption that you all would find that there
13 is competition that meets their test and that you would accept
14 their test. And, again, we reject that.

15 The primary basis for the companies supporting repeal
16 of the rules, if you look at your matrix, rule matrix in the
17 far right column is, I think, in every rule. I don't think I
18 found one that didn't have this. The first statement is as a
19 basis for repeal, this rule should not apply to competitive
20 markets or streamlined regulation companies. And they go on to
21 say that competitors, by which they mean or they should be
22 saying unregulated entities or entities unregulated by you all,
23 because you don't have the statutory authority, don't have to
24 do this. So they don't have to do it, we shouldn't either.
25 But, again, they presume the finding of a competitive market

1 per their test and the streamlined regulation companies. We
2 reject the notion that those exist for lack of comparable,
3 truly comparable competition.

4 There has been a long observed history of quality of
5 service regulation in this state going back perhaps to the
6 Johnson administration, and it's a result of -- largely it's a
7 result, I think, of the quality of service rules that were
8 enacted starting back then and maintained since that time.

9 We don't care about what's going on in Georgia by and
10 large, and I would suggest to you that you probably don't want
11 to consider too readily to reduce the time for compliance by
12 66 percent to go from the three-day requirement in the state of
13 Florida to the five days enjoyed by the telephone companies of
14 the state of Georgia. It shouldn't happen on your watch, I
15 wouldn't think. We reject that notion of finding the lowest
16 common denominator and going there in the name of efficiency.

17 So, lastly, we have enjoyed this high quality of
18 service in this state, and it's because of the rules. That's
19 the status quo, Commissioners. And I would submit to you on
20 behalf of AARP that the repeal of most or perhaps any of these
21 rules that are before you now will result in unnecessary
22 degradation of the quality of service that the customers of
23 these companies are receiving. And that's something that I
24 would suggest that shouldn't be either your individual or your
25 collective legacy.

1 Thank you.

2 **CHAIRMAN CARTER:** Thank you.

3 Commissioners, just kind of one of my airhead
4 moments. I forgot to mention to you that -- and for the
5 parties, too, we're going to break today at 5:30. So you can
6 still submit your comments and all. I forgot there is an
7 annual fire alarm safety drill for the entire Commission. It's
8 going be at 6:00. So if we break at 5:30 that will give staff
9 a chance to go back, collect their stuff, and we can evacuate
10 the building. It just slipped me, and I do apologize to you
11 for that.

12 **COMMISSIONER ARGENZIANO:** If you didn't think about
13 it, we would have been surprisingly alerted.

14 **CHAIRMAN CARTER:** You know how annoying that thing
15 sounds. But what I did want to do is we are going to go until
16 5:30 and do as much as we can there. People have had an
17 opportunity to participate and we have got a lot of comments.
18 You still have an opportunity to make further comments, but I
19 do want to kind of let you guys know so that I don't run in
20 cross purposes with our security people on that. You know,
21 when they do the alarm and they start locking the doors, and I
22 don't mind being locked out, I just don't want to be locked in.

23 **COMMISSIONER ARGENZIANO:** Mr. Chair, you're right.
24 And make no mistake, they will throw us all out. They don't
25 cut us any slack, and rightfully so.

1 **CHAIRMAN CARTER:** Good deal. So we will do that.
2 Mr. Twomey was batting cleanup, right?

3 **COMMISSIONER EDGAR:** He just finished.

4 **CHAIRMAN CARTER:** He just finished? Okay, good.

5 Commissioners, let me do this. In Section A we
6 talked about periodic reports, report of interruptions, the
7 availability of service, maintenance of plant and equipment,
8 customer trouble reports, adequacy of service, transmission
9 requirements, answering time, intercept service, preferred
10 carrier freeze, service guarantee program. That's what's
11 included within that first section there. Let me do this
12 before going to staff or to the parties. Let me just allow,
13 Commissioners, for any questions or comments on those areas
14 that pertain to Section 2A.

15 Commissioner McMurrian, you're recognized.

16 **COMMISSIONER McMURRIAN:** Thank you. And I will ask
17 this of the companies, or, Ms. Clark, I guess, on behalf of the
18 companies. Several of the presenters for the ILECs, small and
19 large, mentioned things about that they were trying to focus on
20 what was important for their customers, and that at least with
21 respect to certain of the tests like, well, the answer time --
22 or the standards, not the test, that they didn't think it was
23 important to the customers, for instance, that the phone be
24 answered in 30 seconds. And I know it is little more
25 complicated than that. It is not just 30 seconds after the

1 phone is picked up, it is something about after you get that
2 initial automated person on the other line, on the end of the
3 line.

4 Do any of the companies have any kind of data or
5 information as a result of focus groups, or even petitions in
6 other states, or any kind of data of what happened -- I guess
7 it's really kind of two different things. Any kind of
8 information about what the customers say is important to them.
9 I heard Ms. Willis say, and I think we talked about this
10 before, that they seem to focus more on when we call we want
11 our problem answered within that first call, not so much how
12 many seconds the phone was answered. I do agree that I get
13 frustrated, too, if I am on the phone a long time. And it does
14 happen on several things, whether it's the airline or --
15 anyway, a number of things.

16 But do you have any information that you can share
17 with the Commission, any of the companies, about either in
18 certain states we have put in this requirement where we answer
19 the phone within, I don't know, 60 seconds, or 90 seconds, or
20 whatever, and we haven't gotten any complaints, or we have
21 gotten this number of complaints and that sort of data. Or
22 just data about when you have done focus groups the kind of
23 things that the customers have said these are the most
24 important things to us. And that's to anybody, or to Ms. Clark
25 on behalf of all of them.

1 **MS. WILLIS:** Commissioner, Windstream has actually
2 done some focus groups. We did so when we spun off our
3 wireline business in 2006, so we have some input from our
4 customers that talks about what they believe is most important
5 to them. So we do have some of that data, and we have
6 structured our business around those things which our customers
7 have told us is important to them.

8 I heard some comments earlier where someone said if
9 the rules, these service quality rules go away, then service
10 quality is going to decline and someone even said the service
11 quality has been declining. And what I would suggest is rather
12 than that service quality has declined is that we are simply
13 focusing on what is important to our customers, and that that
14 doesn't necessarily line up with the rules that are currently
15 in place today.

16 For Windstream, not only are we focused on what our
17 customers are doing, we are meeting the service quality
18 requirements. Yet we are still experiencing the same kind of
19 competition because our customers are making choices, and they
20 have those choices, and they are making them based on their own
21 personal preferences, not based on these rules.

22 So we don't feel like our service quality has
23 declined. We have asked our customers what is important to
24 them, and that is what we want to focus on and we should be
25 able to.

1 **MR. McCABE:** If I could comment. We're in a similar
2 situation. What frustrates me so much here is this notion that
3 our senior management does not feel that our customers are
4 important to us. They are our most critical person in terms of
5 the viability of our company. I mean, we collect enormous
6 amounts of data in terms of what our customers are expecting
7 from us. Periodically we do customer loyalty studies. What we
8 want to know is why did our customer leave and go to the cable
9 provider, or why did they leave and go to the wireless
10 provider? All of those things are extremely, extremely
11 important to us, yet these service quality rules are what we
12 are focusing on, yet there is this belief that we don't care
13 about our customers. And that can't be -- that is the furthest
14 thing from the truth, and that to me is what is extremely
15 frustrating.

16 We do. We have service quality -- I mean, we have
17 internal matrix in which our senior management folks are
18 compensated on it. I mean, you need to meeting these
19 standards. That's important to them, whether it is answer
20 times, our group that handles our answers, if they are not
21 meeting what, you know, senior management thinks is the
22 appropriate goal, they do, they analyze things. They try to
23 figure out what is happening. And then if it turns out, yes,
24 we need to hire more people -- which we recently did. Back in
25 July we ended up hiring 20 new people because our internal

1 standards weren't being met, regardless of what the Commission
2 standards are.

3 They have got a responsibility to our shareholders,
4 to our customers. I mean, they go to bed at night worrying
5 about our financial shape much more than the Commission does.

6 **MS. WILLIS:** And I would certainly echo Tom's remarks
7 that there is an assumption that we don't care about our
8 customers. And, again, we don't exist without our customers.
9 We're in business to provide service, and we need our customers
10 in order to do that. So just like TDS, we are constantly
11 evaluating ourselves and we have internal matrices also. We
12 have internal requirements in terms of the service that we
13 provide and the quality of that service. And our management
14 all the way down to our operations folks, we are all
15 accountable to those internal measurements, and so we work very
16 hard to make sure we are meeting our customers' needs. And
17 there is an assumption or appears to be an assumption here that
18 we don't care at all because of these rules when, in fact, we
19 are focused on our customers.

20 **COMMISSIONER ARGENZIANO:** Mr. Chairman.

21 **CHAIRMAN CARTER:** You're recognized.

22 **COMMISSIONER ARGENZIANO:** Just to make sure you
23 understand that you may feel that assumption from others and
24 they have the right to do that, I don't think you have heard it
25 from any of the Commissioners.

1 **MS. WILLIS:** I agree. And I apologize if I've
2 implied that.

3 **COMMISSIONER ARGENZIANO:** I just wanted to make that
4 very clear.

5 **CHAIRMAN CARTER:** Years ago I had an opportunity to
6 work for Senator Dempsey Barron, and he had a statement on his
7 desk, two words, "Assume nothing." And as an impartial body,
8 my colleagues and I have no preconceived ideas, motives
9 whatsoever. We come to it with an open mind, listening to the
10 parties, taking what the parties say, look at the facts, look
11 at the statute, look at the law, and then we make our decisions
12 based upon that. But we don't see any good guys or bad guys,
13 we see people doing what they are supposed to do. And in the
14 absence of that, we have enforcement and other kind of things
15 to not reward bad behavior. But don't assume because of our
16 questions that we have any kind of preconceived notion. We are
17 just trying to get to the facts.

18 And each one of us, the five of us have stated
19 individually and collectively is that we believe in giving
20 everyone a fair shake, the companies, the consumers, the public
21 at large. That way you don't have to play any games or hide
22 anything. That is the way we operate. So, thank you,
23 Commissioner Argenziano, for that statement, because it did
24 seem to imply that it was coming from us, and I know that could
25 not be further from the truth.

1 We last left with Commissioner McMurrian. Oh, Jerry,
2 Mr. Hendrix, you're recognized, sir.

3 **MR. HENDRIX:** I just wanted to make a brief comment.

4 AT&T is under a service guarantee program, and we
5 believe that we more than satisfy the requirements of that
6 program. The thing that is key is that the service guarantee
7 plan puts the customer first. We are dealing directly with the
8 customer. That plan has been modified. It was found to be in
9 the public interest, and we believe that we are providing
10 excellent service to our customers. And simply because you
11 have the rules, we still have the order governing the service
12 guarantee program, and we do not intend to pull out from under
13 the service guarantee program.

14 **CHAIRMAN CARTER:** Thank you.

15 **MR. O'ROARK:** Mr. Chairman, if I could briefly
16 address Commissioner McMurrian's question.

17 **CHAIRMAN CARTER:** Young whipper-snapper, go right
18 ahead.

19 **MR. O'ROARK:** I meant no offense. I thought I was
20 showing how old I was. (Laughter.)

21 The answer for Verizon is yes. As I mentioned
22 before, we are taking a very close look at the extent to which
23 consumers who have experienced a miss are complaining
24 expressing concerns about that experience, and the early
25 returns are that those expressions of concern are very low. I

1 hope to have that full analysis here in a matter of days and I
2 will be happy to provide it to you.

3 We do do other analysis. For example, we look at why
4 do customers leave us, and other analysis of our ability to
5 satisfy customers, and we generally find that we do a very good
6 job of satisfying customers.

7 **CHAIRMAN CARTER:** Commissioners, anything further on
8 Item 2 as it falls from Section 2A, service rules dealing with
9 the periodic reports, interruptions, availability of service,
10 maintenance of plant and equipment, customer trouble reports,
11 adequacy of service, transmission requirements, answering time,
12 intercept service, preferred carrier freeze, and service
13 guarantee program. That was all encompassed within 2A.

14 **MS. CLARK:** Mr. Chairman.

15 **CHAIRMAN CARTER:** Yes, ma'am.

16 **MS. CLARK:** I would only point out that some of those
17 things that are -- you know, termed quality of service rules
18 that, you know, I don't know that they are the type that you
19 normally think of in terms of its application to a customer.
20 For instance, if you look at .069, it's a very generic rule,
21 which in some sense really doesn't have any standards in there,
22 and probably could be done away with. Because if the company
23 is not efficient, it's not going to keep customers, it's not
24 going to make money.

25 The other thing is I think it has been suggested that

1 we are presupposing competition and that there is effective
2 competition, as I read it, for all purposes. I want to come
3 back to the fact that what we are suggesting is for purposes of
4 streamlining regulation with respect to the rules that we have
5 outlined before you. And I think the precept -- what it does
6 propose is there is no longer a monopoly market where you have
7 one company providing services to all customers, and that's why
8 we don't think this kind of across-the-board standards for
9 service are appropriate.

10 It is hard to determine what level of service is
11 needed for a given market, for given customers, and what we are
12 asking you to do is allow the companies to focus on customer
13 satisfaction because that really drives keeping them. It
14 drives them to other carriers if it is not there.

15 **CHAIRMAN CARTER:** Thank you, Ms. Clark.

16 Mr. Twomey.

17 **MR. TWOMEY:** Yes, sir. Mr. Chairman, Commissioners,
18 just briefly. In the spirit of compromise and convinced by the
19 wisdom of what Ms. Clark just said, as one customer party, I
20 would like to agree with Ms. Clark that the maintenance of
21 plant and equipment rule is probably one that could be done
22 away with. Because if they don't have one, then it will show
23 up in the other quality of service rules.

24 So on behalf of AARP, we would be willing to
25 stipulate to the removal of that particular rule unless your

1 staff had some reason they found that in their area of
2 specialized expertise they need it, and then we would defer on
3 that. But, otherwise, we would be willing to agree to the
4 repeal of that in the spirit of compromise.

5 **CHAIRMAN CARTER:** Anything further, Mr. Twomey, in
6 that Section 2A?

7 **MR. TWOMEY:** No, sir.

8 **MR. KONUCH:** Mr. Chairman.

9 **CHAIRMAN CARTER:** You're recognized.

10 **MR. KONUCH:** Thank you. Earlier when we were talking
11 about the PC freeze rule, and originally the proposal of the
12 ILECs was that the state PC freeze Rule 25-4.083, would be
13 inapplicable, and then in the post-workshop comments the ILECs
14 suggested that there be a compromise where the federal rule
15 would apply as the state rule, and it would be identical. And
16 I earlier said we would be okay with that compromise, but
17 looking at my notes and studying this a little bit more, I
18 think I was correct in my initial position. And I apologize
19 for not noting this earlier, but there are important
20 differences between the federal rule and the state rule. And I
21 think those, I guess, militate in favor of keeping the state
22 rule.

23 And the main difference between the two, and I just
24 want to make sure I am on record as saying this before we move
25 on to the next section, the FCC rule allows carriers to charge

1 for putting a PC freeze on a customer's account and for
2 removing the PC freeze, but the Florida PSC rule does not allow
3 carriers to charge for PC freezes. Also, the PSC rule does not
4 allow carriers to actively solicit customers to institute a PC
5 freeze, it only allows a carrier to notify a customer of the
6 ability of the freeze, whereas the FCC rule would allow you to
7 actively solicit a PC freeze.

8 So the concern with relying solely on the FCC's rule
9 is that it would allow an unscrupulous carrier -- and, again,
10 this is not anyone here, but why get rid of the rule if there
11 is a reason for it existing. Someone could offer to install a
12 PC freeze at no charge to the customer and could actively
13 solicit the customer, and say, hey, you know, this is a good
14 idea. You should have a PC freeze. It would prevent anyone
15 from slamming your service without your authorization. But
16 then you could institute a tariffed charge to remove the PC
17 freeze, and that would be permissible under the federal rules,
18 but it would not be permissible under the current state rule.

19 So the current state rule has an important purpose in
20 that it prevents you from charging to put the freeze on or
21 taking it off. And, theoretically, if one wanted to -- if we
22 just had the federal rule, one could go out and either solicit
23 carriers to put the PC freeze on, but then go ahead and tariff
24 a high charge to remove it. And that's really the concern that
25 we have over the rule. And there is no way that the presence

1 or absence of competition could control that because it would
2 automatically cost more to remove the PC freeze and switch to
3 the competing carrier. And that's the only clarification I
4 wanted to make.

5 **CHAIRMAN CARTER:** Thank you.

6 Commissioner McMurrian.

7 **COMMISSIONER McMURRIAN:** Chairman, I know you
8 probably think I am going to enter into some confrontation with
9 Mr. Konuch, and I'm not. I wanted to make a suggestion at this
10 point, since we are going to be done at 5:30, we have all
11 talked about earlier, for a good reason.

12 I was hoping that, you know, of course, we would be
13 further along at this point than we are, and I think everyone
14 was. I was hoping we were going to get more detail from all
15 the parties about each rule. You know, what their specific
16 concerns were for wanting the rule repealed and what the
17 specific concerns were for wanting the rule to stay, and I
18 think even under the assumption that -- or under the truth that
19 we haven't made any decision about a market test one way or the
20 other. But, of course, there is always that possibility that
21 the decision would be we don't have a market test and then we
22 might still be looking at the rules. I think that
23 appropriately you all have made comments with regard to
24 specific rules and what your specific concerns are, I just
25 don't think we have gotten there with each and every rule.

1 And I think that the staff was planning on having
2 post-workshop comments. And I know this may make them fairly
3 lengthy, but I guess I would suggest that each of the parties
4 try to address every rule in their comments. It doesn't have
5 to be, of course, a book. And this is for the ILECs, too,
6 because a lot of the rules -- the comments that we have on a
7 lot of the rules here suggest that it should not apply due to
8 competitive markets. I think that we would all benefit by a
9 little bit more explanation about exactly why this rule is
10 burdensome to you in case we get into that posture. I think we
11 are going to need that information.

12 And on the flip side with respect to OPC, and the
13 AG's office, and the AARP, and all the other parties, if there
14 are things that you don't have concerns with, it would be nice
15 to know that. Just as Mr. Twomey graciously agreed with
16 Ms. Clark a minute ago, it would be nice to know which rules
17 you don't have an issue with, because I think we have talked,
18 especially with respect to these service rules, in a more
19 general fashion on both sides. So at least that would help me
20 to have that in the post-workshop comments. I know that will
21 be lengthy and a lot of things for staff to go through, but,
22 again, I think that we could use it. Thank you.

23 **MR. TWOMEY:** Mr. Chairman.

24 **CHAIRMAN CARTER:** Mr. Twomey.

25 **MR. TWOMEY:** I'm overwhelmed by the moment.

1 **CHAIRMAN CARTER:** But like Mr. Konuch, you have
2 changed your mind, right?

3 **MR. TWOMEY:** In the spirit of further compromise, I
4 have found two additional rules that I think we would be
5 willing to stipulate the repeal of, and those would be
6 4.112 and 4.113.

7 **CHAIRMAN CARTER:** 4.112. Oh, that is in B, 2B or not
8 2B.

9 **MR. TWOMEY:** I didn't mean to get ahead.

10 **CHAIRMAN CARTER:** That's okay. Getting ahead is
11 fine. That's what we have all been trying to do. Let me just
12 say this, Commissioners, staff, and parties, I think what
13 Commissioner McMurrian said makes a tremendous amount of sense.

14 **COMMISSIONER McMURRIAN:** The first time all day.

15 **CHAIRMAN CARTER:** You had great ideas earlier today.
16 Well, one great idea. I don't want her to get the big head,
17 you know. You're doing great.

18 Let's do this, let's have the -- we can put together
19 a matrix and do a side-by-side. And as we do that, because we
20 are going to need these comments, as we do that you can say,
21 okay, we know that the comments that we have here in our book
22 is primarily the comments from the companies, is that correct?

23 **MS. CLARK:** Yes.

24 **CHAIRMAN CARTER:** So maybe we can build some other
25 categories. One for the AARP, for the OPC, for the

1 Communication Workers of America. Get your feedback on each
2 one of those and it will help us as we go through our
3 deliberation. We can say okay -- and, again, as Commissioner
4 McMurrian said, rather than saying it's just for competition,
5 it may be helpful to do a little more. I noticed that on
6 4.023 you gave a little more explanation than you did on
7 4.0185, the periodic reports. I think that would be helpful to
8 all parties involved, and it would be available -- as we get
9 it, we will make it available to the parties, so we will all be
10 on one accord when we get back on that.

11 And I think that was an appropriate time for me to
12 mention that, because it does make sense. I don't want anyone
13 to feel rushed or anything like that, but, of course, I don't
14 want us to be lollygagging, either. So if we can get the --
15 and it's like we did before, sometimes on some of our cases we
16 will have OPC says no position. And if you have no position,
17 or AARP says no position, or we agree, whatever the case may
18 be, at least we can have that as we go along here so we can
19 look at the specific sections of the rule. Does that make
20 sense to you guys? It will be very helpful to us and the
21 Commission, it would be very helpful to us if you were to do
22 that.

23 **COMMISSIONER ARGENZIANO:** It would give everybody the
24 opportunity to make a basis for their decision.

25 **CHAIRMAN CARTER:** You're right, Commissioner

1 Argenziano. What it does is allow us to -- you know, we are
2 all talking about apples instead of apples and grapefruit. You
3 know, we are talking about the same thing.

4 I'm not hungry yet, I'm just getting there. But I
5 think it would be more -- and, staff, it is probably going to
6 one of those gargantuan pages and we will have to put different
7 columns in there for that and get it done for us as we proceed
8 further on this. I don't think that works to a disadvantage of
9 any of the parties, because we will make whatever we get
10 available to all of the parties.

11 Ms. Clark.

12 **MS. CLARK:** Mr. Chairman, we would welcome that. It
13 would be helpful to us, as well, because as you can see, I
14 think there are likely things that we can agree on.

15 **CHAIRMAN CARTER:** Excellent, excellent. I agree.

16 **MS. MILLER:** Also, Mr. Chairman, we had noted down
17 here that we are going to be working on what is called the
18 SERC, the Statement of Estimated Regulatory Costs, so to the
19 extent that there are any costs and benefits that you can
20 actually provide that could feed into that SERC, that would be
21 really helpful, as well.

22 **CHAIRMAN CARTER:** Commissioner Argenziano.

23 **COMMISSIONER ARGENZIANO:** Since we're going to do
24 that, is there any way that staff could get a heads-up ahead of
25 time so they can be prepared, because I'm going to turn to

1 staff and say, okay, did they make a real basis, you know, what
2 is staff's opinion on that, and they are going to need a
3 heads-up, I would think.

4 **CHAIRMAN CARTER:** And it makes sense that way. Staff
5 will have an opportunity when you ask a question. Well, this
6 is what they said. We agree or we disagree.

7 **COMMISSIONER ARGENZIANO:** Or do they have something
8 to add to what has been said, exactly.

9 **CHAIRMAN CARTER:** Or they don't go far enough or
10 whatever the case may be. That makes sense.

11 **MR. MAILHOT:** I mean, staff at some point will do a
12 complete analysis of everybody's comments before we bring back
13 a recommendation, you know, before you to adopt a rule or rule
14 change, and you will have everybody's comments, and you will
15 have a comparison, and you will have our analysis of that.

16 **CHAIRMAN CARTER:** Good. And make sure the parties
17 have it, as well. We want everybody to be -- we want full
18 disclosure. Everything open and transparent. That way,
19 Ms. Perry, in your organization, the Communication Workers of
20 America can look and see and make comments, as well. Always,
21 Mr. Kelly, with your office doing great work. Ms. Bradley,
22 looking forward to hearing from you, as well. Mr. Twomey, save
23 the best for last, we will be looking to hear from you, as
24 well, on that. 3.1 million members is that where we are now?

25 **MR. TWOMEY:** In all modesty, it is just over

1 3 million.

2 **CHAIRMAN CARTER:** Just over 3 million. You need to
3 get out there and start beating the bushes, man.

4 Commissioners, anything? Well, if we're going to do
5 that, then I suppose there is no need of us continuing to --
6 what is it, beat a dead to sleep or something? How does that
7 metaphor go?

8 **COMMISSIONER ARGENZIANO:** Yes, but that is against
9 the law.

10 **CHAIRMAN CARTER:** It's against the law, so let's not
11 do that. Ms. Clark, do you have everything that you need in
12 terms of being able to make --

13 **MS. CLARK:** Except dates.

14 **CHAIRMAN CARTER:** Okay. Ms. Miller.

15 **MS. MILLER:** We had listed two weeks from now,
16 9-24-08 in order for us to proceed to the October 28th agenda,
17 or that's our hope, but I am wondering if this is still a game
18 plan.

19 **CHAIRMAN CARTER:** Well, let's see from the parties.
20 Does that give you ample time? I know it may be easier for the
21 companies, but OPC and the other parties have not had an
22 opportunity to go line-by-line.

23 Mr. Kelly.

24 **MR. KELLY:** I just had a question. Are you all going
25 to send out a form, like a matrix form you want us to type

1 into, or do you just want us to submit our comments and you are
2 going to cut and paste them in? I mean, it makes no difference
3 to us, but if will let us know, then we will conform to that.

4 **MS. MILLER:** We'll do the cutting and pasting.

5 **CHAIRMAN CARTER:** Ms. Bradley, are you okay with
6 that?

7 **MS. BRADLEY:** Yes, sir. Thank you.

8 **MS. MILLER:** If I could, Mr. Chairman, please send
9 them electronically.

10 **MS. CLARK:** Just so I'm clear, they will be due on
11 the 24th. And, of course, if we have additions to make based
12 on what we hear today, we will do the same thing. We will send
13 you an updated our thoughts column.

14 **CHAIRMAN CARTER:** Let me ask this, Mr. Kelly. Does
15 this date work for you, Ms. Bradley, on this?

16 **MR. KELLY:** The 24th? Yes, sir.

17 **CHAIRMAN CARTER:** Mr. Twomey?

18 **MR. TWOMEY:** Yes, sir.

19 **CHAIRMAN CARTER:** Ms. Bradley?

20 **MS. BRADLEY:** Yes, sir.

21 **CHAIRMAN CARTER:** Okay. Ms. Perry.

22 **MS. PERRY:** Thank you for asking.

23 Unfortunately, I don't have any type of staff, so
24 what I would be doing would be sending this off to Atlanta and
25 Washington, and they would have to do their thing and then get

1 it back to my state council. So it might be a little bit tight
2 on the 24th, but if everybody else is okay with that, that is
3 what we will go with.

4 **CHAIRMAN CARTER:** Thank you. We appreciate that.
5 And, also, if you see that you can't make it, you can obviously
6 talk with our staff and we may be able to just have a
7 placeholder for them, just create on our matrix a placeholder
8 for you.

9 **MS. PERRY:** Thank you.

10 **MS. KAUFMAN:** Mr. Chairman, could I ask a question?

11 **CHAIRMAN CARTER:** Ms. Kaufman.

12 **MS. KAUFMAN:** Just by process to get into the staff's
13 matrix, you just want us to send you a Word document with
14 whatever rule we are going to comment, and you are going to
15 format it like these attachments? That's the question.

16 **MR. MAILHOT:** That sounds fine. I think if you have
17 the rule number and then whatever comment you have, and that
18 way we can just cut and paste your comment into the
19 spreadsheet.

20 **MS. KAUFMAN:** Thank you.

21 **CHAIRMAN CARTER:** Is everyone clear? Ms. Clark.

22 **MS. CLARK:** Yes, sir, I'm clear.

23 **CHAIRMAN CARTER:** Mr. Kelly.

24 **MR. KELLY:** Yes, sir.

25 **CHAIRMAN CARTER:** Ms. Bradley.

1 **MS. BRADLEY:** Yes, sir.

2 **CHAIRMAN CARTER:** Ms. Perry.

3 **MS. PERRY:** Yes, sir.

4 **CHAIRMAN CARTER:** Mr. Kelly and Mr. Twomey.

5 **MR. TWOMEY:** Yes, sir.

6 **CHAIRMAN CARTER:** I had one of my Mike Twomey
7 moments. I guess it's as good a time as any to adjourn, isn't
8 it?

9 (The workshop concluded at 5:00 o'clock.)

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1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTERS

3 COUNTY OF LEON)

4

5 WE, JANE FAUROT, RPR, and LINDA BOLES, RPR, CRR,
6 Official Commission Reporters, do hereby certify that the
7 foregoing proceeding was heard at the time and place herein
8 stated.

9

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

15

16 WE FURTHER CERTIFY that we are not a relative,
17 employee, attorney or counsel of any of the parties, nor are we
18 a relative or employee of any of the parties' attorneys or
19 counsel connected with the action, nor are we financially
20 interested in the action.

21

22 DATED THIS 19th day of September, 2008.

23

24

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