

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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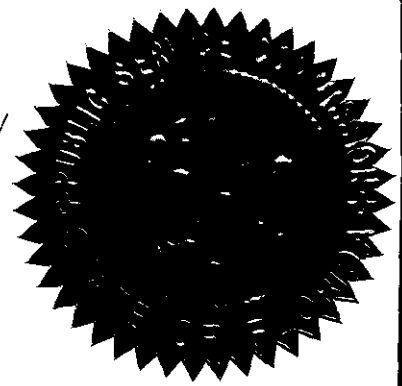
IN THE MATTER OF:

INITIATION OF RULEMAKING TO AMEND
AND REPEAL RULES IN CHAPTERS 25-4
AND 25-9, F.A.C., PERTAINING TO
TELECOMMUNICATIONS.

DOCKET NO. 080641-TP

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.

Docket NO. 080159-TP



PROCEEDINGS: AGENDA CONFERENCE
ITEM NO. 3

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

DATE: Tuesday, January 6, 2009

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

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

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P R O C E E D I N G S

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2 **CHAIRMAN CARTER:** And with that, Staff, you're
3 recognized for Item 3.

4 **MS. COWDERY:** Commissioners, I'm Kathryn Cowdery with
5 the Office of General Counsel.

6 Item Number 3 addresses Docket Numbers 080159 and
7 080641. Those dockets address 78 telecommunications rules. At
8 two previous agendas, the Commission took action on 54 of these
9 rules, and eight rules were withdrawn from consideration. This
10 item addresses the remaining 16 rules which pertain to service
11 quality.

12 In Issue 1, staff recommends that the Commission
13 propose repeal of two rules as set forth in Attachment A of the
14 staff recommendation. In Issue 2, staff recommends that the
15 Commission propose the amendment of 13 service quality rules as
16 set forth in Attachment B to the recommendation. In making
17 these rule recommendations, staff has reviewed and considered
18 input from participants from three rulemaking workshops. The
19 workshop participants provided comments. They represent groups
20 with diverse interests and differences of opinion as to what
21 the rules should say and whether the rules should be retained.
22 Nonetheless, a certain amount of consensus on these rule
23 changes has been reached by staff and the participants.

24 Section 364.01 requires the Commission to balance the
25 policy of encouraging the development of competition with

1 customer protection considerations. Staff has prepared a
2 recommendation on these rules which attempts to balance these
3 two policies.

4 If the Commission proposes the rule changes being
5 recommended by staff, and those changes become effective, the
6 amended rules would apply prospectively from their effective
7 date. There are interested persons here who would like to
8 address the Commission on this item, and staff is prepared to
9 answer any questions which the Commission may have.

10 **CHAIRMAN CARTER:** Thank you.

11 Before we recognize the parties, Commissioners and
12 staff, I think I saw -- unless I was having one of my -- maybe
13 I ate Italian food and had a nightmare or something like that.

14 **COMMISSIONER ARGENZIANO:** Hey, hey.

15 **CHAIRMAN CARTER:** Sorry. Too much Christmas turkey.

16 Did I see a proposed group of stipulations in here or
17 was that another case? Did I see that?

18 **MS. COWDERY:** Commissioner, with regard to the
19 rulemaking itself, there is no stipulation, per se, that the
20 Commission has to take any action upon. I think what you may
21 have been looking at was a side agreement which occurred
22 between the joint petitioners, CompSouth, and I believe one
23 other party, I think Sprint Nextel. But that is an agreement
24 among themselves as to how they wish to proceed. It is not
25 something that requires Commission attention.

1 **CHAIRMAN CARTER:** Oh. Well, I was optimistic.

2 **MS. KAUFMAN:** Chairman Carter. I'm Vicki Kaufman. I
3 just passed that out before we began.

4 **CHAIRMAN CARTER:** Hang on a second, Ms. Kaufman.
5 Hold your horses there.

6 **MS. KAUFMAN:** Sorry.

7 **CHAIRMAN CARTER:** Let's do this. I wanted to take
8 appearances, and I know I see Ms. Bradley with the Attorney
9 General's Office. Let's just take appearances and we'll go
10 from there, starting with Ms. Clark.

11 **MS. CLARK:** My name is Susan Clark. I am with the
12 law firm of Radey, Thomas, Yon, and Clark. We are at 301 South
13 Bronough Street, Suite 200. I am here on behalf of the joint
14 petitioners; that includes Verizon Florida, AT&T Florida,
15 Embarq Florida, TDS, and Windstream.

16 **CHAIRMAN CARTER:** Okay.

17 Next.

18 **MS. KAUFMAN:** I'm Vicki Gordon Kaufman. I am with
19 the law firm of Keef, Anchors, Gordon, and Moyle, and I'm here
20 on behalf of the Competitive Carriers of the South, Inc.

21 **CHAIRMAN CARTER:** Mr. Beck.

22 **MR. BECK:** Good morning, Mr. Chairman.

23 Charlie Beck, Office of Public Counsel, on behalf of
24 the Citizens of Florida, and I'll yield my microphone.

25 **CHAIRMAN CARTER:** Ms. Bradley, good morning to you.

1 **MS. BRADLEY:** Thank you, sir.

2 Mr. Chairman, Commissioners, Cecilia Bradley on
3 behalf of the Citizens of Florida, Office of the Attorney
4 General.

5 **MR. TWOMEY:** Mike Twomey appearing on behalf of AARP.

6 **CHAIRMAN CARTER:** I thought I saw a representative
7 from the Communications Workers of America.

8 **MR. PERRY:** Gail Marie Perry with the Communications
9 Workers of America, Council of Florida.

10 **CHAIRMAN CARTER:** Okay. Do we have all the parties?
11 Have all the parties made their appearances? Mr. Hatch.

12 **MR. HATCH:** Tracy Hatch appearing on behalf of AT&T
13 Florida.

14 **CHAIRMAN CARTER:** Okay.

15 **MR. O'ROARK:** De O'Roark appearing on behalf of
16 Verizon.

17 **CHAIRMAN CARTER:** Mr. O'Roark. Okay. Do we have all
18 the parties that have -- have all the parties had an
19 opportunity to make an appearance?

20 Come on down, sir, so we can get your name on the
21 record.

22 **MR. KONUCH:** Dave Konuch from FCTA. We don't plan on
23 making a statement, but we're here.

24 **CHAIRMAN CARTER:** Thank you, Mr. Canuck. I finally
25 got your name right.

1 Yes, sir, come on down.

2 **MR. WORLEY:** I'm Ray Worley, Vice President of
3 Florida Consumer Action Network.

4 **CHAIRMAN CARTER:** Thank you. Now do we have all of
5 the parties -- have all of the parties been able to make an
6 appearance?

7 Okay. All right, staff, let's reintroduce the issue
8 And from that, Commissioners, we will go from our part. We can
9 either do comments first, we can do questions first, and then
10 we will go from there. So, with that, staff, would you
11 reintroduce the issue, the item.

12 **MS. COWDERY:** Commissioner, Issue 1 is whether the
13 Commission should propose repeal of Rules 25-4.046, 25-4.071,
14 25-4.072, and 25-4.108. And the staff recommendation is that
15 the Commission should propose repeal of Rules 25-4.046 and
16 25-4.108.

17 **CHAIRMAN CARTER:** Okay. Commissioners, that's Issue
18 1. Would you prefer to just deal with it from -- let's just go
19 with issues in sequential order, or what's your preference.
20 Okay. All right, then. We'll go from the top, and we'll hear
21 from the parties on each one.

22 Ms. Clark, you're recognized.

23 **MS. CLARK:** Thank you very much, Mr. Chairman and
24 Commissioners. And happy new year to you all. We thank you
25 for the opportunity to provide comments today on the staff's

1 recommendation, and, again, comment on the need for this
2 Commission to take further action to streamline the regulation
3 of incumbent local exchange companies.

4 As the petitioners have noted previously on many
5 occasions to you, the retail telecommunications environment
6 around the country and particularly in Florida has dramatically
7 changed. It has become highly competitive with many
8 competitors vying to meet the telecommunications needs of
9 Floridians. The Commission's own status of competition report
10 provides substantial evidence of the significant competition
11 that exists today in the industry.

12 As we said in our petition, which we filed over
13 nine months ago, consumers will be better served by an
14 environment that fosters continued investment in infrastructure
15 and further development of technological innovation while still
16 preserving appropriate safeguards for consumers.

17 It is even more true today than it was when we filed
18 the petition that consumers will benefit by a regulatory
19 environment that allows all competitors to focus on consumers'
20 needs rather than complying with outdated rules and regulations
21 left over from a time when little competition existed.

22 Additionally, Florida's economic recovery will
23 likewise be better served by an environment that encourages
24 increased investment in infrastructure and technological
25 innovation. As I said, more recent developments show that the

1 need for a regulatory forum to ensure symmetrical regulation of
2 all telecommunications providers has become more urgent. Some
3 of you may have seen an article in the USA on December 30th
4 regarding the move to wireless service. I'm having Mrs. Cole
5 (phonetic) pass that out, and she is also going to pass out a
6 matrix of the proposed rules before you that we would like to
7 comment on.

8 But getting back to the USA Today article, it says
9 that businesses are increasingly phasing out desk phones;
10 colleges, businesses, and government agencies are moving to cut
11 the cord and become wireless. The figure in the headline is an
12 estimated 25 percent of businesses are phasing out their desk
13 phones.

14 Recent statistics for the Florida companies is
15 further evidence of the shift away from wireline services. For
16 the 28 months from June 2006 through October 2008, Florida
17 companies have experienced significant residential access line
18 losses. Verizon has lost 26.6 percent of its residential
19 access lines, Embarq has lost 23.8 percent, AT&T's losses
20 exceed 20 percent, Windstream has lost 6.57 lines, and TDS has
21 lost 12.5 percent of their residential access lines.

22 We are pleased that you have already taken action on
23 a number of the rule repeals and amendments suggested by the
24 joint petition by your previous decisions in Dockets 080159 and
25 080641, but more remains to be done. Many of staff's proposed

1 amendments in the recommendation you have before you are
2 acceptable, but we have serious concerns with a few of the
3 rules and have alternative language for you.

4 But before getting to those particular rules, we have
5 some general comments to make about the need for the rule
6 changes we have asked for, and we have asked Doctor David
7 Sappington from the University of Florida to make some of those
8 comments. He is an eminent scholar in the Warrington School of
9 Business at the University of Florida. He is also the Director
10 of the University's Public Policy Research Center, and
11 President of the International Industrial Organization Society.
12 He has served as an advisor to incumbent providers,
13 competitors, and regulators alike, and he has also served as
14 the chief economist for the Federal Communications Commission.
15 And I'd like to ask him to make those comments now.

16 **DR. SAPPINGTON:** Thank you, Ms. Clark, and thank you,
17 Mr. Chairman. And thank you all, Commissioners, both for the
18 opportunity of speaking here today and for the privilege of
19 having seen that moving ceremony this morning. And
20 congratulations to Commissioner Edgar.

21 I have been asked to provide my expert opinion as an
22 economist on the rule changes that the Commission staff has
23 recommended in this proceeding. I'd like to begin by
24 complimenting the staff for recommending important rule changes
25 that limit the extent to which prevailing industry regulations

1 are outdated by rapidly changing industry conditions. And I
2 would be remiss if I did not congratulate this Commission for
3 having undertaken the bold innovative steps that have, in fact,
4 led to these rapidly changing industry conditions.

5 The staff's excellent report on the status of
6 competition in Florida's telecommunications industry documents
7 vividly the intense and ever increasing competition that
8 prevails in the state today. And my central message is that
9 because the Commission has done such an outstanding job of
10 bringing vibrant competition to Florida, the Commission now has
11 the luxury of being able to rely more heavily upon competition
12 and less heavily upon unavoidably imperfect regulatory mandates
13 to protect consumers and ensure desirable industry outcomes.

14 In particular, by adopting even more progressive
15 reforms than those recommended by the staff, including the
16 finer targeting of rules to residential basic local service as
17 proposed by the petitioners, the Commission can take more
18 complete advantage of the many benefits that competitive
19 discipline offers relative to regulatory mandate.

20 These advantages include the obvious ones of driving
21 prices to cost and elevating levels of service quality. But,
22 in addition, competition compels industry suppliers to discover
23 those dimensions of service quality that are most highly valued
24 by consumers, and to continually deliver the optimal levels of
25 this service quality to consumers as their preferences and

1 industry conditions change over time. Competition also fosters
2 on-going innovation and infrastructure investment as industry
3 suppliers continually strive to better serve customers and as
4 their needs and industry conditions change.

5 In the old days, the pre-competition days, regulators
6 had no choice but to intervene in the marketplace on behalf of
7 consumers. Under monopoly supply of an essential service, the
8 incentives of the industry supplier are not typically closely
9 aligned with those of industry consumers. When consumers have
10 no alternative sources of supply for essential services, an
11 unregulated monopolist often will elevate prices and may
12 curtail service quality.

13 In contrast, competition drives profit maximizing
14 firms to pursue the very best interests of consumers. Firms
15 that fail to discover and faithfully pursue these interests do
16 not thrive in a competitive market, because consumers will
17 switch their allegiance to alternative suppliers who promise
18 more innovative higher quality services at lower prices. And,
19 thus, intense competition plays the fundamental role of
20 aligning the profit-maximizing incentives of industry suppliers
21 with the very best interests of the consumers they are serving.

22 And, consequently, in the presence of intense
23 industry competition, inherently imperfect regulation is not
24 needed to identify and enforce appropriate levels of service
25 quality. Market competition will perform this role and will

1 continue to do so on an ongoing basis as consumer preferences
2 and industry conditions change.

3 And not only is service quality regulation
4 unnecessary when competition aligns the interests of suppliers
5 and consumers, but such regulation can be harmful. Industry
6 costs and thus industry prices rise unnecessarily when
7 suppliers are required to provide unduly high levels of service
8 quality on dimensions that are of limited concern to consumers.
9 Furthermore, when some industry suppliers are required to
10 deliver more than the optimal level of service quality and
11 other suppliers do not face the corresponding obligation, the
12 unregulated suppliers can gain an unfair advantage over the
13 regulated suppliers. This advantages distorts the competitive
14 process and can limit industry innovation and infrastructure
15 investment.

16 My sense from reviewing the transcripts of the
17 prehearing conferences in this proceeding is that there is, in
18 fact, substantial agreement that sufficiently intense
19 competition is superior to regulatory mandate in ensuring
20 appropriate levels of service quality. A key question,
21 therefore, is whether competition in Florida telecommunications
22 industry is presently sufficiently intense to warrant further
23 reliance on competitive discipline. And indeed it is in my
24 opinion, thanks to the Commission's excellent work in
25 formulating the appropriate ground rules for fair and effective

1 competition in the state.

2 The staff's report on the status of competition in
3 Florida's telecommunication industry, and NERA's March 2008
4 report filed in this proceeding, both document the intense
5 vibrant competition that prevails in the state. These reports
6 describe the wide range of choices that are presently available
7 to Florida's consumers and review the prospects for even
8 greater choice in the coming days.

9 Indeed, other states have already adopted greater
10 reliance on competitive discipline. In Indiana, for example,
11 only basic local residential service remains regulated, and
12 even that service will be deregulated as of July 1st of this
13 year. In addition, all retail telecommunications services have
14 been largely deregulated in Nebraska and South Dakota for
15 several years now, and I'm not aware of any problems that have
16 arisen as a result of such increased reliance on competitive
17 discipline in these other states. This experience supports the
18 merits of taking greater advantage of the many benefits that
19 competition can provide here in Florida.

20 Before concluding, I note that ongoing application of
21 regulatory rules to residential basic local service is not the
22 only safety net that consumers would enjoy under the
23 petitioners' proposed rule changes. The Commission always has
24 the power to change service rules should a regulated supplier
25 foolishly provide an inadequate level of service quality. And

1 I say foolishly, because not only would such an action harm the
2 supplier by driving valuable customers into the arms of
3 welcoming alternative suppliers, but the action would invite
4 the Commission to impose stringent asymmetric service quality
5 standards that could severely handicap the regulated supplier.

6 So, in summary, I again commend the staff for having
7 recommended substantial changes to service quality rules to
8 better reflect prevailing industry conditions. I also
9 respectfully suggest that even more progressive changes would
10 be appropriate. Focusing the proposed rules on residential
11 basic local service will provide a strong safety net while
12 harnessing more fully the many benefits that competitive
13 discipline can provide relative to unavoidably imperfect
14 regulatory mandates. And by so harnessing the superior power
15 of competitive discipline, the Commission can best protect the
16 long-run interests of consumers in Florida while encouraging
17 innovation and investment in telecommunications markets and
18 avoiding unnecessary regulatory restraints. Thank you.

19 **MS. CLARK:** Mr. Chairman.

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

21 **MS. CLARK:** Just to reiterate and succinctly state
22 what we've said all along and what Doctor Sappington has said,
23 we believe that there is a wealth of evidence that exists today
24 that there is significant competition such that competition can
25 be relied on to discipline market participants to deliver

1 quality service, and we continue to believe that several rules
2 in your staff recommendation should no longer apply to ILECs.
3 They don't apply to other market participants and they should
4 no longer apply to the ILECs.

5 However, throughout this rulemaking process the joint
6 petitioners have made many concessions from our original
7 request for the rule changes to implement the streamline
8 regulation. We have backed away from the competitive tests to
9 determine eligibility for streamlined regulation; we have
10 agreed to the amendment of several rules rather than repeal;
11 and we have compromised on amendments to other rules for their
12 continued applicability to basic residential local services.

13 We have made these concessions even though our
14 competitors are free to offer their services without the
15 burdens of these regulatory restraints. In the spirit of these
16 compromises, the joint petitioners believe that the
17 applicability of the rules, again, should be limited to basic
18 residential local telecommunications service.

19 This is a distinction -- this distinction is
20 necessitated by the mandates of competition and it is also
21 consistent with Chapter 364. Throughout that chapter, the
22 Legislature makes distinctions between basic and nonbasic
23 service for regulatory purposes. Most importantly, as your
24 staff acknowledges at Page 10 of the recommendation, the clear
25 policy of the Legislature is to promote competition while

1 ensuring the availability of basic local exchange service.

2 Beyond that, the statute also sets out the
3 considerations the Commission is charged with implementing, and
4 that is encouraging competition through flexible regulatory
5 treatment among providers of telecommunications services,
6 eliminate any rules or regulations which will delay or impair
7 the transition to competition, ensure that all providers of
8 telecommunications services are treated fairly by preventing
9 anticompetitive behavior and eliminating unnecessary regulatory
10 restraint. And, finally, recognize the continuing emergence of
11 a competitive telecommunications environment through the
12 flexible regulatory treatment of competitive telecommunications
13 services. And, Commissioners, I am reading from 364.014.

14 In keeping with that legislative direction and
15 recognizing the various comments made in this proceeding, this
16 Commission should limit the applicability of several of the
17 rules identified in the recommendation to basic residential
18 local telecommunications services. Indeed, one of the rules
19 being amended today, 4.066, does just that currently. That's
20 the rule on availability of service. It now applies to basic
21 local telecommunications service, but the amendments proposed
22 by staff broaden it to residential -- broaden it by
23 substituting the word residential for basic, and this is a move
24 in the wrong direction as far as we are concerned given today's
25 market. Rather, the rules should be amended to add the word

1 residential rather than eliminating the word basic.

2 We likewise believe the applicability of Rules
3 25-4.070 and 4.073 should be limited to basic residential
4 telecommunications services. In our view, this is a
5 significant compromise. These rules put the Commission in the
6 posture of managing the joint petitioners' workforce when our
7 competitors are still free to manage their workforce in
8 accordance with the demands of their customers. We think
9 staff's suggestion that 364.08 requires that the rule also
10 apply to bundled services is misplaced. That statute addresses
11 uniform application of rules for like or substantially similar
12 service. It is the notion that similar things should be
13 treated similarly.

14 Here the Legislature --

15 **CHAIRMAN CARTER:** Are you close?

16 **MS. CLARK:** -- distinguishes between basic -- two
17 sentences.

18 **CHAIRMAN CARTER:** There you go.

19 **MS. CLARK:** -- from all other nonbasic services,
20 including bundled services, so that the services are not
21 similar such that the statute applies. I would also point out
22 the statute has referenced and is directed at carriers, not the
23 Commission, and nothing in this statute prevents the Commission
24 from distinguishing between services, particularly when that
25 distinction is based on the statute.

1 Commissioners, we have handed out a matrix on the
2 particular rules. We would like to speak to those particular
3 rules at the appropriate time.

4 **CHAIRMAN CARTER:** Thank you.

5 Commissioner Argenziano.

6 **COMMISSIONER ARGENZIANO:** You know, Mr. Chair, I
7 think I'll wait and listen to the others, and then I have
8 questions.

9 **CHAIRMAN CARTER:** Okay. So we'll just hear from all
10 of the parties and then we'll do that. Okay. You are
11 recognized.

12 **MS. KAUFMAN:** Thank you, Chairman Carter. Good
13 morning, Commissioners.

14 As I said, Vicki Gordon Kaufman. I am here on behalf
15 of the Competitive Carriers of the South. As you know,
16 CompSouth is an organization of competitive telecommunications
17 providers who provide service here in Florida and in the
18 southeast. I will admit to you that I did not come prepared
19 today to address Doctor Sappington's remarks. I didn't know
20 that we were going to be taking additional testimony on the
21 rule, nor have I seen the handout that was distributed of these
22 additional suggested rule changes prior to coming here today.

23 But having said that, I'm going to focus on the staff
24 recommendation, and my comments are much more narrow. I think
25 that as you have all sat through the workshops, listened to Mr.

1 Gillan, I think that at least among the parties, perhaps, we
2 have agreed to disagree about the level of competition in the
3 state. But having said that, our concern with the staff
4 recommendation, and this relates to the stipulation that I did
5 pass out earlier, and I apologize to Chairman Carter and the
6 Commissioners for jumping the gun, my comments relate to the
7 stipulation and to staff's remarks on Page 42.

8 We have a major concern with staff's comment there
9 which suggests to you, I think, that you not include in your
10 proposed rulemaking order language that the parties have agreed
11 to in the stipulation, and you have that in front of you. And
12 language which you have included in the -- I think there have
13 been at least two prior rulemaking orders issued in this case
14 that Ms. Cowdery referred to. And I think I'm authorized to
15 represent today that the ILECs do not oppose the inclusion of
16 our language that's in the stipulation in the order. And I
17 want to just take a minute and give you a little bit of
18 background in regard to CompSouth's position in this case.

19 **CHAIRMAN CARTER:** Commissioner Argenziano.

20 **COMMISSIONER ARGENZIANO:** Forgive me, but when we
21 talk about things that are on a page, I would rather not flip
22 to the page and be distracted from what you're saying. Can you
23 tell me what it is you are talking about on that page?

24 **MS. KAUFMAN:** Absolutely. If you turn to the
25 stipulation, it is the second page, which I apologize, is not

1 numbered, and it's numbered Paragraph 3. And I was going to go
2 into that in a little more detail if that would be all right.

3 **COMMISSIONER ARGENZIANO:** Thank you.

4 **MS. KAUFMAN:** What I was going to say is that
5 CompSouth has participated in this case since its inception.
6 And as we participated, realizing that these rules deal with
7 retail service and retail provisions, we have had two
8 consistent concerns and focuses. The first has been our
9 concern with what the ILECs have called the streamline
10 regulation rule that you heard Ms. Clark refer to. And you
11 heard a lot of discussion about that in prior workshops.

12 Secondly, it is critical to us to ensure that no
13 changes occur in the SEEMs, the self-effectuating enforcement
14 mechanism plan, or the SQM plan that is currently in effect.
15 These plans are critical to the CLECs, to the competitors as
16 they require a certain level of wholesale service to wholesale
17 providers who, in turn, serve the retail market.

18 We discussed our concerns about these two issues with
19 our ILEC colleagues across the table, and as I indicated, we
20 reached agreement with them. As to the streamline regulation
21 rule, that was withdrawn, and it's no longer on the table for
22 consideration. As to the point I'm here to address today, the
23 impact on the SEEM and the SQM plan, we agreed in Paragraph
24 3 of the stipulation, the second page, and let me just quote,
25 "None of the proposed rule changes are intended to have any

1 impact on the current service quality measures, SQM, and the
2 associated self-effectuating enforcement mechanism, SEEM, to
3 which ILECs may currently be subject. Joint ILECs will ensure
4 that the changes to the rules do not affect the current
5 SQM/SEEM plan to which the respective ILECs are subject. The
6 parties will request that the Commission include in any notice
7 of rulemaking in this docket the following language, and you
8 see the language that is included indented there in Paragraph
9 3. So, the parties have reached an accord and have asked that
10 you include this language, and you have done it in your prior
11 rulemaking.

12 Now, as I understand staff's position on Page 42 of
13 the staff recommendation, they are suggesting to you, I guess,
14 essentially that you provide the ILECs with more relief than
15 what the parties have agreed to. We don't understand that, but
16 more importantly, we think it does place consumers at greater
17 risk because relaxation of wholesale standards -- and you have
18 to remember that the CLECs are still dependent on the ILECs for
19 a number of things in order to provide service to the retail
20 market. So degradation of the wholesale standards will impact
21 retail competition, we think, and service quality.

22 We think that wholesale standards, the SQM, the SEEM
23 plan go a long way to ensuring that consumers have choice that
24 we all agree is important, and that has long been a goal of the
25 Commission. We think the only reason you might want to accept

1 less regulation at the retail level is because you've got some
2 protections on the wholesale side.

3 So we urge you to include in your notice of proposed
4 rulemaking this language that the parties have agreed upon. To
5 the extent that for some reason you are not inclined to do
6 that, we suggest that you do not make these changes to the
7 three rules that are addressed on Page 42, so that the SQM and
8 SEEM plan remain as it is.

9 As I said, I can't really speak to the changes that
10 have been proposed in the handout that Ms. Clark discussed with
11 you, because I haven't had time to study those. To the extent
12 that there is any issue with those rules affecting SEEM or SQM,
13 again, we would simply suggest that you include the language
14 that the parties with agreed to.

15 Thank you.

16 **CHAIRMAN CARTER:** Thank you.

17 Mr. Hatch.

18 **MR. HATCH:** Yes. This is Tracy Hatch. In this
19 instance I'm speaking on behalf of the ILECs as a whole. We
20 crafted that language with CompSouth and we do not anticipate
21 or foresee any changes in the SQM or the SEEM plan with respect
22 to the changes that we are proposing in this rule. None of the
23 SQM/SEEM measures, which are the wholesale performance
24 measures, are tied to, or keyed upon, or otherwise referenced
25 in any of the SEEM or SQM rules. So we don't anticipate there

1 is any effects or impacts, and that is not our intent in this
2 rulemaking process. So we fully support the addition of the
3 language.

4 **CHAIRMAN CARTER:** Mr. Beck.

5 **MR. BECK:** Thank you, Mr. Chairman, Commissioners.
6 Charlie Beck with the Office of Public Counsel.

7 Commissioners, our concerns, I think, are very
8 succinctly stated on the very last page of the recommendation.
9 That's Page 96, Attachment C. And on the top of that page the
10 staff puts how the parties are affected by the adoption of the
11 proposal, and at the top of Page 96 is customers. And I'll
12 just read from there, if I might.

13 It starts off by saying customers would be able to
14 understand the clarified and streamlined rules better. We're
15 certainly in favor of that. We have agreed to many changes to
16 the rules, you know, the repeal of certain rules, and we are
17 certainly in favor of making them streamlined and making them
18 clear. But our concern follows that. It says with regard to
19 the amendments, customers would possibly have increased
20 aggravation costs from longer answering times with the ILECs,
21 more dropped calls, longer time for repairs to be made, and
22 longer time for installation of new service.

23 Commissioner, we're not in favor of any of those
24 things and question why you would want to adopt rules where
25 that's the stated -- the impact on customers that could result

1 from your rules. Just last month we looked at Verizon with
2 regard to the rules regarding repair of their service outages,
3 and we saw that in years 2001 through 2004 Verizon easily
4 satisfied all the requirements of your rules.

5 The precipitous drop occurred in 2007, and we have
6 some theories about why that occurred. We are about to
7 initiate an investigation when Verizon answers your show cause
8 order, and we'll find out just why Verizon's compliance dropped
9 so markedly. The point of that is we are going to have an
10 investigation and we're going to have evidence and we are going
11 to present the results of that to you.

12 Commissioners, it seems to me it would be premature
13 to change rules when you don't even have the benefit of an
14 investigation, an evidentiary proceeding. You know, in the
15 previous rule proceeding, we have had no opportunities for
16 discovery. You don't get that in a rule proceeding. But it
17 seems to me you would want to look at exactly why the companies
18 are letting their compliance with the standards down, because
19 we know they can, and we know that they are simply not doing it
20 right now.

21 At some risk, I'm going to share with you what I
22 shared with J.R. about my just overall view of what's going on
23 in these rules, and it goes back to the history of what
24 happened with candy bars. And, Chairman Carter, you probably
25 remember when candy bars were a nickel. I do. I assume you

1 do.

2 **CHAIRMAN CARTER:** Yes, I do.

3 **MR. BECK:** And the price went up on candy bars. They
4 went to a dime, and then they went to a quarter, and then at
5 some point the candy makers said we can't keep increasing the
6 price. So what they did is they started decreasing the size of
7 the bars. So what you got for a quarter one day was less than
8 what you had gotten before.

9 And that's what I see is going on with these rules.
10 That if you adopt these rules, customers are going to still pay
11 the same price, but they are simply going to get less. They
12 are not going to not get their calls answered. You know, the
13 proposal has it increasing from 30 seconds to 90 seconds on
14 calls. An analyst in our office who I won't name, but he's an
15 avid Gator fan, checked that out, and he said 30 seconds is
16 seven rings on the phone. Well, if you triple that, that's
17 equal to 21 rings on the phone. You know, why would you want
18 the answer time to increase from 30 seconds to 90 seconds?

19 This also loosens up the repair and installation
20 standards. So we are not in favor of these substantive rule
21 changes that we think would affect customers adversely. Thank
22 you.

23 **CHAIRMAN CARTER:** Thank you. Ms. Bradley.

24 **MS. BRADLEY:** We support the Office of Public Counsel
25 and their comments. I would just add that, you know, we think

1 the service quality rules are so important to so many people in
2 Florida. And it was interesting that the economist mentioned
3 preferences of consumers. Well, there is a lot of consumers
4 that don't have a lot of preference because they can't afford
5 it, they're on fixed incomes. What they want, though, is a
6 reliable landline phone that they can use. And I think the
7 companies have an obligation to provide that. That's what they
8 want, and a lot of them that's all they can afford, but it's
9 important.

10 You know, that's their reach outside of their home.
11 A lot of people that are handicapped or something, they have
12 trouble getting out. They rely on their landline phone to call
13 their neighbors, their friends, their family. It's important
14 in cases of an emergency. That's how they reach the fire
15 department, or the doctor, or whatever else they need. And
16 keeping service quality where it is and improving it is vitally
17 important to these people, and I think we owe consumers that.
18 It's not asking a lot.

19 It's great that we have competition and new
20 technology and a lot of people will enjoy that. And I suspect
21 they will make a lot of money providing that technology. And
22 we encourage that. We want the companies to be successful and
23 we want them to be able to provide new technology and
24 competition, and we're very proud of that. But at the same
25 time it can't be at the expense of the rest of people that rely

1 on you and these companies to provide landline service for
2 essentials. And so we would encourage you not to make any
3 changes that will affect service quality.

4 Thank you.

5 **CHAIRMAN CARTER:** Thank you.

6 Mr. Twomey.

7 **MR. TWOMEY:** Thank you, Mr. Chairman and
8 Commissioners.

9 On behalf of AARP, I'll adopt what Ms. Bradley just
10 said on behalf of the Attorney General's Office and Mr. Beck on
11 behalf of the Office of Public Counsel, as well. And note,
12 too, as Ms. Kaufman alluded to, we have a new witness today.
13 We have a new authoritative newspaper article, apparently. I
14 haven't had time to read it, either. But, as Mr. Beck said, we
15 have no evidence in this case. Your staff is suggesting
16 substantive changes to the status quo that Mr. Beck wants out,
17 but the staff acknowledges in the paragraphs that he read to
18 you would lead to increased inconvenience and aggravation.

19 We have no sworn testimony in this case to date. We
20 have a lot of lawyers, myself included, talking about what they
21 think the status of the world is. And to the extent we have
22 had witnesses, they are not sworn, either, and not subject to
23 cross-examination. So I think that we specifically agree with
24 what Mr. Beck said on behalf of Public Counsel. Phrased
25 differently, either you're for increased inconvenience and

1 aggravation or you're not. And on behalf of the over
2 three million members of my client, I would ask that you not be
3 for those things. Thank you.

4 **CHAIRMAN CARTER:** Thank you.

5 Ms. Perry.

6 **MR. PERRY:** Again, I'm Gail Marie Perry with the
7 Communication Workers of America, Council of Florida. I just
8 want to say I'm not a lawyer, but I am elected every three
9 years to represent my workers before the state legislature.
10 And I have been lucky enough to have started the year before we
11 changed the communication policy in the state of Florida, so I
12 have been able to follow it all the way along the line. And I
13 have been able not only to represent my workers before the
14 Legislature, but as I have said to you in the past, my mandate
15 from my members, because I have members in telecommunication:
16 Cable, wireless, all sides, long distance, large local exchange
17 companies, small local exchange companies. Because my
18 membership is so vast, I am to walk the consumer line, and I
19 have been lucky enough before the Legislature to do that.

20 I know we worked really hard to stop the slamming and
21 the cramming, and I know we started speaking about it, the
22 workers started speaking about it three years before the
23 Legislature took action. In 1991, we also made urgent changes
24 that we saw four years before the Legislature acted. That
25 meant a lot of consumers were being ripped off in our beautiful

1 state of Florida. And when I take a look at -- I don't know,
2 is this the final product of the docket or do we have new
3 information that we are looking at today? But to see that the
4 communication in the state of Florida is on a decline when it
5 comes to customer service standards. To absolutely say
6 personally, and for my workers, and for the consumers that I
7 have represented for such a long time, to absolutely say if the
8 consumers don't like the customer service quality, then they
9 will go on to somebody else. I think that's outrageous to say:
10 Go ahead, let them eat cake, go elsewhere to get your service
11 if you don't like it here.

12 And I think somebody made a very good point about the
13 candy bar. But we are seeing the same thing with the attendant
14 at the gas station who used to do all of that extra work for
15 you, and we don't have any of that anymore. Did the customer
16 want that? Yes, they did. Were they willing to pay lots of
17 money for it? They didn't pay a lot of money for it. But we
18 saw a degradation in the quality of service in many other
19 industries.

20 You know, oversight of the communication system in
21 the state of Florida is what you are here for. And we honestly
22 believe that the wireline is the backbone of the communication
23 system in our United States. And if we don't maintain that
24 backbone, well, if you have been in a hurricane lately, you
25 absolutely know what I'm talking about. Wireless is not there.

1 The majority of the time there is wireline services available.

2 It was pointed out in the last two weeks of committee
3 meetings in the Legislature that it is the job of government to
4 maintain safety and security for its citizens. Telephone
5 service used to be a luxury, and no one has called it a luxury
6 in the last 34 years that I've been working in the industry.
7 It is not a luxury. It is for that handicapped person, that
8 safety and security for the handicapped, for the low income.

9 I see in this docket a degradation. I know that the
10 customer service carrier of last resort is sunsetting out of
11 the law, or has sun-setted out of the law, but it is as it was
12 sold to the Legislature. It is still in the federal law. And
13 right now I see in this docket that there is a degradation of
14 the carrier of last resort. It stops the oversight to make
15 sure that things are maintained.

16 You know, to say that when your service is just out
17 of order, or it has got static on the line, to say that that
18 means the same thing as we don't have a wireline at all is not
19 correct, but this docket says it is correct. To say that
20 wireless service is the same as mobile service or mobile
21 service is the same as wireless service, it is not correct.

22 You can travel in parts of Florida -- I know I
23 traveled this summer for my summer vacation to help some people
24 when they were trying to get elected for office. And I know my
25 phone didn't work for an entire weekend because I did not have

1 wireless service there in that area. The people in the area
2 tell me they have the same problem. So to say that competition
3 is alive and flourishing, yes, we have started that in the
4 state of Florida. But to say one year out of cable service
5 being deregulated that we now have competition in the state of
6 Florida is not correct.

7 There is no comparison to data services and phone
8 service, getting your phone service through the Internet.
9 There is no comparison between wireless -- Can you hear me now?
10 -- to your line service where you can talk to the emergency
11 people without having to call them back three times.

12 I see also in this just like other people have
13 pointed out on the last page and on Page 43, I have to read it
14 again, I know you have heard it already, but it needs to be
15 said three or four more times that there will be increased
16 aggravation, increased costs. I have to stop right here. I
17 told you I was around since this started, and it was all sold
18 to us -- competition was sold to us for lesser prices, not
19 lesser service. Lesser prices. Everything was passed for
20 lower prices.

21 And I don't know about you, but I know my mobile
22 phone is way over the 12-something a wireline provides. I
23 think in only one of our workshops did any one of the people
24 come up with only one company that had a lesser monthly service
25 than wireline service. One company. I don't call that

1 competition when the selling, you know, kind of like the
2 lottery was sold for education. It's the same thing. The
3 competition was sold on lesser prices for the consumer, not
4 lesser service. Not a smaller candy bar. Not 48 hours out of
5 service before you get an adjustment. Right now it's 24.
6 Let's make it 48 so we don't have to give you that \$2.90 or
7 that \$1.95.

8 **CHAIRMAN CARTER:** Ms. Perry, are you close to winding
9 up?

10 **MR. PERRY:** I am.

11 **CHAIRMAN CARTER:** I appreciate it.

12 **MR. PERRY:** I just had a couple of questions that I
13 thought was rather important, and I didn't know who would be
14 able to answer them. And in the packet it did talk about when
15 you get your phone service along with broadband or video
16 services, that you were given longer than the five business
17 days to get service installed. And although it's bundled, I
18 guess, in a package, I don't know how it's sold, but there's no
19 reason for a wireline to take five days. Nevermind -- you
20 know, changing it from three to five -- nevermind making it
21 longer because you are getting broadband, or data services,
22 or -- that's not voice-over-the-Internet we are talking about.
23 We are still talking about wireline service. So I was
24 wondering why it would take longer for that.

25 The 24 to 48-hour repair. So if a customer calls on

1 Friday because they are out of order, and let's say there's
2 illness in the house, does the 48 hours start on Monday,
3 because Saturday and Sunday is not included, or -- I wasn't
4 quite sure how that would be.

5 Let's see. The adequacy of service, I had one
6 question about that. Adequacy of service is when I call Miami,
7 I get a fast busy because all the circuits are busy to Miami.
8 I can't get a call through to Miami. I'm in Broward myself.
9 Or if I call Palm Beach, I get a fast busy. It's very
10 important that fast busy conditions stay as it is, because how
11 are you going to know if the backbone of communications is
12 adequate? How are you going to know if we are maintaining, if
13 the industries are maintaining and putting service where --
14 extending their services to areas within their region. Again,
15 talking about the carrier of last resort. You know, service is
16 supposed to be for everybody, not just the higher income areas
17 which we see happening in our nation, but also in the lower
18 income areas. It's probably even more important that they have
19 access, especially with the education over video and education
20 over the Internet that's happening.

21 I guess the last question that I have would be small
22 business, usually considered one-line business, of course,
23 another backbone of the state of Florida. I have concerns
24 about totally excluding them from any type of regulation. My
25 last comment would be -- I had several other things that I

1 wanted to talk about, but my last comment would be lack of
2 oversight in our nation in the last few years has got us into a
3 fix right now. And the economist to my right may differ, but I
4 know lack of oversight of how the money is spent, how things
5 are maintained, if someone does a contract properly has put us
6 in quite a little bit of a fix in our nation. And I don't want
7 lack of oversight to degradate (phonetic) the communications
8 systems of the United States -- of the state of Florida.

9 I mean, we have gone from number one to 21 in the
10 world. So, please, we do not support the changes that are
11 being made. There were a couple in here that we would support,
12 but I thank you very much for letting me speak as long as you
13 did. Thank you.

14 **CHAIRMAN CARTER:** Thank you so kindly. And we do
15 want to hear from everyone, but we do want to be judicious so
16 that we can begin our deliberation.

17 Mr. Konuch, did you want to be heard? And the last
18 gentleman that came up, I'm sorry, I forgot your name. Would
19 you just come on up, too, so we can get all the comments and
20 then we can start our deliberations from the bench.

21 Mr. Konuch, you're recognized.

22 **MR. KONUCH:** Yes. Dave Konuch on behalf of FCTA.

23 I would just add that, like several of the other
24 speakers this morning, we have not seen this new rule matrix
25 that was handed out this morning, and as a result we are not

1 prepared to comment on it.

2 I did not plan on making a statement today. I think
3 because of the intervening holidays, that the recommendation
4 was filed shortly before Christmas, we haven't had a chance to
5 really run this by all of our clients. So to the extent we
6 have any issues, depending on what the Commission does today,
7 we'll raise those possibly by filing something in the docket.

8 The only issue that we really had left was the one on
9 PIC freeze, and we still believe that the existing Florida PIC
10 freeze rule should be retained. I know the staff had some
11 modifications to it. So that remains our position. But to the
12 extent we have any additional comments, I think we will raise
13 them at the appropriate time.

14 **CHAIRMAN CARTER:** Thank you so kindly, Mr. Konuch.

15 You're recognized, sir. And please state your name
16 for the record. I'm having one of my over-50 moments, so I
17 didn't write your name down.

18 **MR. WORLEY:** My name is Ray Worley. I am the
19 Vice-President of the Florida Consumer Action Network, and one
20 of the founding board members. We founded the organization in
21 1984.

22 I get to come out and talk every now and then,
23 because I am one of the people that is the consumer that you
24 are talking about. I am 100 percent disabled, and have been
25 since 1982. But the communications industry is one of my

1 biggest expenses in my day-to-day living.

2 My bundle of things that we get is \$300 a month. I
3 live in a rural community called Okeechobee, and there my
4 company is Embarq, and to get a bundle that they a bundle, it
5 is landline, high speed Internet, and the TV. But to travel
6 like I do, I also have to have an airless card for my computer,
7 and a wireless cell phone.

8 Recently I started trying to figure out how to bundle
9 all five parts of that deal together, and in communicating with
10 my local service I was told that basically they couldn't offer
11 me all five of them in a bundled package. That they are fixing
12 to enter into negotiations with the people who own their towers
13 that they were renting the space off of, and if the
14 negotiations didn't turn out right, we wouldn't even be
15 offering wireless and aircards anymore.

16 But the fact of the matter is that as Ms. Gail Marie
17 and a few other people have talked about here, communications
18 is supposed to be cheaper with competition. In fact, it's not.
19 And when you are pushed into having just the wireless cell
20 phone, you use up all of your minutes in a hurry if you have to
21 talk to a government agency and you get put on hold. And this
22 is something that is continuously being told to us as consumer
23 representatives over and over again. You can't just rely on
24 the wireless card because you can't get on line and stay. You
25 are kicked off, especially in rural areas, Okeechobee. And the

1 reason that I had to get high speed Internet down there was
2 because there was no 3G service. And at three to five and ten
3 kilobytes a second for download speed, you can't use that and
4 stay on line long enough to get even a picture or a document
5 downloaded. And the same thing with uploading, too.

6 But for us as consumers, this is not going to help
7 us. And we would love to have one place that we could get all
8 five of these things that I have to have in one bundle. And to
9 rent stuff off of a tower from somebody else owning the tower
10 definitely doesn't seem quite fair to us in rural counties. We
11 are not sure whether Sprint owns the tower, whether AT&T rents
12 from Sprint, or what. You know, who do we go to to find out
13 who does own what and where do we go to get help from relief of
14 a \$300 a month bill for communications when you have to travel
15 around the state of Florida. You know, the rural people are
16 really getting hurt, and the carrier of last resort issue is
17 really going to hurt us as consumers.

18 And I thank you for your time, and I really am glad
19 to see Ms. Nancy is on your board. Thank you.

20 **CHAIRMAN CARTER:** Thank you, Mr. Worley. Great to
21 hear from you.

22 And, Commissioners, I did want to hear from all of
23 the parties. And with that, Commissioner Argenziano, you're
24 recognized.

25 **COMMISSIONER ARGENZIANO:** Thank you, Mr. Chairman.

1 Because I have several questions and then some
2 comments, because I have some real concerns. And I need to ask
3 staff first. I live in a rural area when I'm in Citrus County,
4 my home county, and here when I'm in Tallahassee. And I had a
5 cell phone, I thought that would do. It doesn't work where I
6 live, so I had to get a landline. And I noticed that Comcast,
7 who I remember when I was in the House and in the Senate,
8 fought for competition so they can get into the VoIP and the
9 bundled services, which they now are in.

10 So I said, wow, okay, I guess I'm going to have to do
11 that. And I went into their bundled service, which is the
12 Internet, high speed Internet, cable, and phone service. And
13 it started out at a really great price and then it kept going
14 up, and up, and up, and up until the point where I thought it
15 was beyond ridiculous. And I remembered their arguments for
16 competition in the Senate, especially. And I also remember
17 that some of the petitioners that are here today were arguing
18 for competition, but yet were fighting against it at the
19 federal level.

20 So I sometimes find it funny now, sitting here and
21 listening to the arguments about competition, when I really had
22 learned first-hand that sometimes the companies really don't
23 want competition unless they are not in that area providing
24 those services and want in. And then when they get in, they
25 buy out the smaller companies, and thus reducing competition

1 again. And being a consumer, and lucky enough to be sitting on
2 this board, first-hand knowledge of how it was passed through
3 the Legislature, and then sitting here.

4 And I guess the question, the first question that
5 comes to mind is what did you find out about competition,
6 truthful competition in the state of Florida? And in regard to
7 the bundled services, let me go back again. For months as
8 Comcast kept going up and up and up in price, and it was
9 getting beyond what was great anymore to have, even in reducing
10 this and maybe going to somebody else and just providing the
11 high speed and going to a landline phone, I couldn't get the
12 high speed services.

13 There was no competition. There is no competition.
14 And recently, just recently Embarq provided those bundled
15 services and actually had gone down to lower than what I even
16 got it initially at Comcast. But I had to sign a two-year
17 agreement with them.

18 So now if we exclude those bundled services, and your
19 argument is saying, well, you wanted competition and we are not
20 providing you service, you can go somewhere else, that just
21 ain't true. What I want to know is in how many areas of the
22 state of Florida is there no competition like I have where I
23 live in two separate places, and do we know the percentage of
24 competition that we really have out there?

25 Because, quite frankly, I'm not finding it in my own

1 practice. And the argument with Comcast, they had good
2 service, I'm not going to say they didn't have good service,
3 but the price got to be beyond what I think is ridiculous. And
4 not being able to go somewhere else, this is all just not real.

5 So I need to know how far my situation is throughout
6 the state as I just heard before, and I think it's pretty
7 prevalent.

8 **CHAIRMAN CARTER:** Staff.

9 **MS. SALAK:** I could make some observations on
10 competition. First, I think that the competition report, if I
11 recall correctly, stated that most exchanges have more than one
12 carrier in that exchange, so that would say there is some
13 competition.

14 **COMMISSIONER ARGENZIANO:** But when you are talking
15 about carriers, are you talking about a landline, are you
16 talking about bundled services? Because there are different
17 levels of competition with different services, or different
18 types of phones. So if you have a different -- like there is a
19 different carrier maybe in the City of Tallahassee where I am.
20 You can use your cell phone if you spin around on one leg, hold
21 a piece of metal, run around a field. You know, that may be
22 considered competition, but it wasn't for me. So I don't
23 know -- you know, maybe wear an aluminum foil hat. I'm sorry.

24 **MS. SALAK:** I think that we can safely say that there
25 is more competition in our urban areas than in your rural

1 areas, definitely. We did, actually, in response --

2 **COMMISSIONER ARGENZIANO:** Did you say more
3 competition?

4 **MS. SALAK:** In our urban areas than our rural areas.

5 **COMMISSIONER ARGENZIANO:** Right.

6 **MS. SALAK:** I believe also we can safely say we did
7 some testing here in-house, because when we first started
8 looking at this petition and the prevalence of wireless and how
9 we could consider wireless in rural areas, and what we should
10 do with that, we actually had our field evaluators go into the
11 field and look at how much wireless.

12 I will tell you that according to the results that we
13 got, and they are all in my office now, there is not a lot of
14 wireless coverage in a lot of rural areas. And there are --
15 and you always hear the tales that across your house, you have
16 it on one side of your house and you may not have it on the
17 other side of your house. But, with that said, we are also
18 seeing data that shows -- and in the competition report we
19 mentioned -- that out of households nationally, and we brought
20 it down to Florida, that at the time of the competition report
21 showed 15 percent of Americans have gone to wireless only. In
22 addition, we believe that trend has continued. That there are
23 probably, I'm guessing, between 15 to 20 percent or more,
24 according to this article, 25 percent of homes that are
25 wireless only.

1 **COMMISSIONER ARGENZIANO:** And I guess my concern
2 there is that when you look at the state, you look at the
3 populated areas, and that is, of course, where the competition
4 or the coverage is for all of those alternative services. And
5 remember when you use that cell phone, a lot of times you have
6 to sign a contract, too. So I don't know how you can just go
7 somewhere else. You know, in reality, you know, you have two
8 years. I know. Me, too. I'm stuck.

9 But it kind of defeats your argument that you can go
10 somewhere else if service is not good, because you're stuck in
11 a contract. And I don't understand how that argument is just
12 not washed right away. Because when you are coming to deal
13 with contracts, I have seen, though, there are some companies
14 springing up that are not -- they are saying you don't need to
15 sign a contract. And to me that is more true competition than
16 being stuck with a company that may be providing lousy service
17 and still having to pay.

18 And I have some relatives who are fighting, actually,
19 some companies right now because their service really stunk,
20 and they wind up having to pay for service that was just
21 unacceptable. And, I guess -- and I understand that, but I
22 think those reports we're hearing about competition -- and, of
23 course, competition has grown. There are new services out
24 there, people are buying them, but it seems to me that the
25 competition is centralized in the most heavily populated areas.

1 You know, I had a Senate district that was 13 of the
2 most rural counties in the state. Those people still have to
3 have services. And when you change a rule that reduces -- and
4 I don't mean to -- reduces the quality because competition may
5 abound in Miami, or Tampa Bay, and then reducing the quality
6 for those other people who live in the rural areas, and I guess
7 then you're saying it's the benefit of the many versus the
8 benefit of the few. And I have real concerns. And I guess I
9 wanted to focus in on what we found as the Public Service
10 Commission the competition really was. I mean, is it like
11 90 percent no competition in rural areas? Do you have any kind
12 of an idea?

13 **MS. SALAK:** I believe in the last competition report
14 that we were seeing -- well, first of all, remember that a lot
15 of our numbers are down for wireline only because that's what
16 we regulate. So for residential wireline competition it was
17 less than 10 percent, which would be like other CLECs. But we
18 have seen an increase in competition with the advent of cable.
19 Cable in certain areas have reduced access lines of some of the
20 ILECs by about a third, which is significant, but those were
21 mostly in urban areas that we are seeing.

22 Again, I will just add about our rules that we did
23 add some language where we bifurcated the state for quality of
24 service for access lines, 50,000 or more lines and less, and we
25 aggregated that information. That was trying to look at the

1 rural communities to make sure that there wasn't a degradation
2 in service. That has been a concern of ours from the beginning
3 that if you didn't have competition in rural areas then we
4 needed to be monitoring that. That's why I know the ILECs
5 would like the service quality things to be just monitored
6 statewide. That's why we actually went with that bifurcation
7 was to address that very concern.

8 **COMMISSIONER ARGENZIANO:** Okay. And let me think if
9 I have another question. I tried to write down what people
10 were saying when they brought out points. And I guess the
11 thing is there is not always preferences of competition out
12 there in many places, because like I have right here in
13 Tallahassee. I don't have that. To get a decent rate, I
14 remember we heard we were going to get one when I was in the
15 legislative process. Because that really was the intent of the
16 Legislature was to reduce the cost to consumers, because
17 allowing competition thus reduced the cost. But it seems like
18 that's not happening, at least not to me anyway. And then to
19 reduce quality, I think is a serious mistake when there are
20 many people that still don't have that competition.

21 I would love to see more competition, and maybe some
22 of the bigger companies could stop buying out the little
23 companies and leave competition. But truthfully in some areas,
24 Mr. Chairman, and colleagues, you can't get those other
25 services and you are stuck with what you have. And you have to

1 pay for it, and the price goes up and up and up.

2 And I guess one other comment was, you know, the
3 petitioners did make concessions, and there are concessions
4 made, and that is appreciated. But perhaps some of those
5 points were far reaching to begin with and they had to be
6 lessened to get to a point. And not trying to stifle
7 competition, but -- and I understand some of the concerns that
8 you have trying to get into the market; but at the same time, I
9 just don't think that reducing quality is going to help those
10 people who don't have the benefit of going somewhere else.

11 I would love to find out, Mr. Chairman, I don't know
12 how we could do it, and I don't know if staff can, is how many
13 people who are in those competitive areas are not signed into
14 contracts and can leave the company when they have no -- and I
15 know we have no regulation over cell phones, but I do talk to
16 my colleagues in the federal level. Especially some who are
17 asking now about some of those competitive competitions --
18 competitive businesses that we have out there that may not be
19 as competitive. They may be out there, but they may not be as
20 competitive as we think they are.

21 With that said, I just have some real concerns and
22 maybe the companies want to respond to what I said, but I have
23 some real concerns about lessening the quality, especially when
24 you can't get competition.

25 **CHAIRMAN CARTER:** Ms. Clark.

1 **MS. CLARK:** Mr. Chairman, first of all, I guess I
2 want to address the idea that the quality is going to degrade.
3 I don't believe that's true. What you have here is you have
4 certain rules that apply and were applied in a different
5 market. And you didn't have the market dictating what
6 customers wanted and there wasn't that sort of ability for the
7 companies to respond to what their demands were because there
8 was only one company.

9 By leveling the playing field and letting all
10 competitors compete on the same basis, you're allowing the
11 ILECs to focus on what customers need and value in terms of
12 customer service. And I think at one of the workshops you
13 heard particularly from Windstream on their -- because they do
14 customer service, and they had very good response to that
15 survey that people liked their customer service.

16 I would suggest to you that there is an assumption in
17 what you are saying that the objectives that are set out on the
18 rules are what customers value. And I would suggest to you
19 that the current loss of customers, residential customers to
20 other carriers would indicate that that may not be the case.
21 That there are other things that they value and other quality
22 and customer service that is being provided that they value
23 more.

24 I know of no company that thinks it can compete by
25 degrading its quality of service. It's just not going to be

1 the method to keep their customers. Our point is that quality
2 of service should not be dictated to one competitor while the
3 other ones are free to respond to the demands of their
4 customers.

5 **COMMISSIONER ARGENZIANO:** Can I respond, Mr.
6 Chairman?

7 **CHAIRMAN CARTER:** Yes.

8 **COMMISSIONER ARGENZIANO:** I agree with that to a
9 certain degree, because, of course, the company would not want
10 to lose customers due to bad quality if there were real
11 competition, okay. And when there is not real competition -- I
12 don't have competition. I just now got some competition, and I
13 know many neighbors who have not that ability. So when a
14 company says, you know what, we are going to let it ring 21
15 times instead of eight, or whatever the number is, because you
16 can't go anywhere else. So if you can't go anywhere else, the
17 company doesn't lose that customer because there is no place
18 else.

19 Now, the customer who may be in the middle of Miami
20 who doesn't have a contract that they are signed into may be
21 able to go somewhere else. So your argument doesn't fully
22 register, because if I can't get out of a contract, or if I
23 have no place to go, of course it's not going to hurt the
24 company, because I can't go anywhere. In some cases I believe
25 you may be right, but in a lot of those cases I'll bet you if

1 we had a study that said, "Show me where the competition is."
2 Let's focus on Tampa, let's focus on Miami, let's focus on
3 Jacksonville, there's competition there. But how many people
4 tomorrow can say, you know what, you are providing me lousy
5 service. I'm trying to get my phone repaired, and I don't know
6 if it will be next week it will be fixed or how long it will
7 take, but I'm stuck in a contract. I can't go anywhere else.
8 So I'm not sure that hurts the company to the point that you
9 will lose a customer. After the contract is done, you may lose
10 a customer, but if the customer only has another contract to go
11 to they are in the same boat again.

12 So I kind of differ and disagree with your opinion on
13 competition. I still agree that there needs to be somewhat of
14 a level playing field, but I think that it is larger than what
15 we are dealing with today.

16 **CHAIRMAN CARTER:** Thank you.

17 Commissioner Skop.

18 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

19 And I thank Commissioner Argenziano for the comments
20 and discussion.

21 **CHAIRMAN CARTER:** And I'll come back to you in a
22 minute.

23 **COMMISSIONER SKOP:** I guess imparting some personal
24 experience here, I don't necessarily know whether it is
25 directly relevant, but I think it speaks to my question that I

1 will advance to Ms. Clark.

2 Recently, at least the state of affairs of the
3 unregulated environment, I have been a service customer of an
4 unnamed telecom provider for over ten years. And recently I
5 had a problem, an unregulated problem, and you called the line
6 and you were on hold for about 15 or 20 minutes, and you talked
7 to representatives, who you spent an hour trying to explain
8 something simple to and they can't fix the problem only to wait
9 that long to speak to a supervisor only to be hung up on. I
10 could hear a pin drop.

11 Anyway, I guess my question to Ms. Clark, and hearing
12 the discussion from Commissioner Argenziano, because I believe
13 that as Commissioner Argenziano does, that there probably needs
14 to be some form of relief. But how would you, Ms. Clark,
15 respond to the AARP concern that I guess is addressed on Page
16 9 to the extent that modifying quality of service requirements
17 for ILECs would result in a diminished level to maintain that
18 quality of service at the existing levels, but also had that
19 unintended consequences that to the extent that the level of
20 service or the level of the bar throughout the state of Florida
21 might decline? Because I'm already seeing that on unregulated
22 side. And if that is the alleged competition, it would seem
23 reasonable to follow that if we grant relief or the strong
24 relief, then what is to prevent that from slipping or eroding
25 further?

1 **MS. CLARK:** Well, I think your argument is that you
2 feel like you should regulate all providers through a single
3 provider, and I think that's inappropriate to try to get to the
4 other providers through the ones that you do currently
5 regulate.

6 **COMMISSIONER SKOP:** I'm not necessarily suggesting
7 that. But the argument has been advanced in the staff
8 recommendation to the extent that at least for traditional
9 wireline service there is no full substitute at complete parity
10 with that. So for that type of service, those people that we
11 have heard from other stakeholders that elderly people or
12 consumers that want that tried and proven wireline that's there
13 without interpretation subject to those historical service
14 standards. Again, I'm not suggesting, as I think that you are
15 trying to say, that we should regulate, you know, religiously
16 through the regulated environment to make up for other things.
17 But, again, I'm trying to balance the interests of all the
18 stakeholders. So if you could just elaborate on the equivalent
19 substitution.

20 **MS. CLARK:** Well, I think sort of the underlying
21 basis of your comment is that regulation does a better job than
22 competition in directing companies to maximize their profit by
23 providing what customers want, need, and desire. And I think
24 the experience of the wireless industry is directly contrary to
25 that. You can see initially they were left unregulated, and,

1 Commissioner Argenziano, you might have remembered the
2 arguments along the way to regulate them, and they have
3 consistently improved their service to meet customer demand.

4 And regarding the notion of it having to be --

5 (Simultaneous conversation.)

6 **COMMISSIONER SKOP:** Well, I would disagree with that.
7 On the unregulated side I would respectfully disagree. I have
8 had that experience where I was on hold for over an hour. So,
9 again, not to impede granting relief, but -- I guess just in a
10 nutshell where I'm kind of at with this is that at least for
11 me, and I'm open to hear the views of my colleagues, because I
12 have not formed an opinion; I hear both sides.

13 But at least to me the staff recommendation seemed to
14 strike perhaps an appropriate balance of affecting the intent
15 of the statute, protecting consumers in the state of Florida,
16 and granting an appropriate measure of relief. Now, it may not
17 be all of the relief all at once, but it's a step in that
18 direction. And I think some arguments have been advanced by
19 Public Counsel that perhaps the Commission should wait and see,
20 based on a docketed matter before us, and get some hard
21 evidence as to what should or should not be done.

22 But that may be an extreme version, whereas staff is
23 taking a pronounced positive step towards granting the
24 requested relief in a manner that is not unduly detrimental to
25 consumers and facilitates competition, but does so in not an

1 overly aggressive manner, but that might have some merits. But
2 I would be happy to hear where my colleagues are on that.

3 **CHAIRMAN CARTER:** Commissioner Argenziano and then
4 Commissioner McMurrian.

5 **COMMISSIONER ARGENZIANO:** I think what I would like
6 to hear from is OPC and the consumer advocates as to staff's
7 proposal. What I see in staff's proposals are pretty good
8 except for the fact that there could be some lapses in
9 services. And I would like a little more emphasis and a little
10 more understanding of the concerns that the consumer advocates
11 have, where they believe that staff's recommendations -- now
12 we're talking without the amendments -- where you feel they
13 would be detrimental to the consumer.

14 **MR. BECK:** Commissioner, Charlie Beck. I'll be glad
15 to. There are certain core provisions, I think, that we are
16 particularly concerned about. One I mentioned is the answer
17 time, and that's on Page 29 of the recommendation.

18 Currently, at least 90 percent of the calls directed
19 to repair and 80 percent to the business office must be
20 answered within 30 seconds. Okay. Staff's recommendation
21 changes that to 90 percent calls to either place must be
22 answered within 90 seconds instead of 30 seconds, and that is a
23 big change. That is a lot longer for people to wait than
24 currently exists, so we see that as a significant degradation.

25 **CHAIRMAN CARTER:** Commissioner Skop.

1 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

2 And just to Mr. Beck. At least noting that is a big
3 change, but, again, that perspective change really, from a
4 consumer perspective, or at least my personal perspective, I
5 have been in the unregulated environment on hold for much
6 longer, so I would welcome the opportunity for somebody to pick
7 up the phone -- again, is there a way you could better
8 articulate why that is more unacceptable other than just a
9 delay in seconds? I mean, to me it seems a somewhat reasonable
10 compromise.

11 **MR. BECK:** That's up to the Commission. You know, I
12 tried to raise earlier the notion of 21 rings versus
13 seven rings. It is a big drop in answer time. It is a
14 lowering of the standard the companies now provide. So people
15 are going to get less for paying the same amount of money. I
16 think the AARP's argument is very persuasive, too. That if you
17 lowered the bar for them, then everybody's bar goes down.

18 **COMMISSIONER SKOP:** And I tend to agree that the
19 quality of service throughout the country has just gotten -- it
20 is a sad commentary on the way things have gotten. But,
21 anyway.

22 **MS. KAUFMAN:** Chairman Carter.

23 **CHAIRMAN CARTER:** One second. Mr. Beck, had you
24 completed? Mr. Twomey.

25 **MR. BECK:** Yes, answer time is one.

1 **CHAIRMAN CARTER:** I will let Mr. Beck finish his
2 thought and then I will hear from the other consumer advocates.

3 Mr. Beck.

4 **MR. BECK:** I will be very brief. The repair time
5 from 24 hours to 48 plus an additional aggregation on top of
6 that I think is a big change that occurred.

7 **COMMISSIONER ARGENZIANO:** Mr. Chair, Ms. Perry asked
8 about this before. I would like to know from staff, is there
9 an idea if it's a Friday afternoon, does that mean the 48 hours
10 starts on Monday?

11 **MS. SALAK:** Actually Saturdays count, too, so the
12 count would be Saturday, and then it would finish Monday.
13 Sundays don't count.

14 **COMMISSIONER ARGENZIANO:** They don't count currently?

15 **MS. SALAK:** Right.

16 **COMMISSIONER ARGENZIANO:** So then if it was -- you
17 would have Saturday there, but it's still a changing of the
18 current time frame for repair from, again -- Mr. Beck?

19 **MR. BECK:** Twenty-four to 48 hours. But it's more
20 than that, because there is an additional aggregation of the
21 data that allows more exceptions. So it's more than just the
22 doubling, but the hours double for repair.

23 **MS. SALAK:** Actually, we combined out-of-service and
24 service-affecting, and out-of-service was 24 hours, and that
25 moves to 48. Service-affecting was 72, so that moves that up

1 to 48. But he is correct about the aggregation, again.

2 **COMMISSIONER ARGENZIANO:** So, then, let me get this
3 right. So if I were to lose service of my phone, it would now
4 take double the amount of time to get it repaired. And can I
5 ask the company why they would want to do that?

6 **MR. GREER:** Yes, Commissioner. Stan Greer with AT&T.

7 We actually proposed the combining of out-of-service
8 and service-affecting just for efficiency purposes in the way
9 that the companies dispatch their technicians. That saves a
10 lot of windshield time from going back and forth and trying to
11 fix out of services. What we generally do is dispatch a
12 technician to an area, fix what is in that area, and then move
13 them along to somewhere else. It was a more efficient way to
14 handle the operational side of the company.

15 **COMMISSIONER ARGENZIANO:** Is there any kind of an
16 emergency component there that someone that may rely on the
17 phone for their life and medical conditions, or --

18 **MR. GREER:** There is nothing as far as I can recall
19 built into the rule. But clearly if we get -- if Mr. Moses
20 calls me and says, you know, I've got an issue I need to take
21 care of. We take care of it as quick as we can.

22 Now, the rule does indicate that you give an emphasis
23 to out-of-service and try to get them back in as quickly as you
24 can, but there's not a specific thing that says for emergencies
25 do it X.

1 **COMMISSIONER ARGENZIANO:** Like alarm systems on
2 houses that could be out double the amount of time. I'm more
3 concerned if someone is sick at home with an emergency. I
4 don't know why we would want to double the time to repair.
5 Unless, you know, the company says -- I just don't understand
6 why you would want to -- don't you think they would file a lot
7 of complaints? Wouldn't we wind up -- the PSC would wind up
8 with a lot of phone calls saying it's taking 48 hours to get my
9 phone back on, and -- I guess I'm answering my own questions.
10 It would change the current service, then.

11 **MR. GREER:** Well, generally we have in our SGP, at
12 least AT&T Florida does in our SGP the 24 hours that
13 essentially if we don't make the 24 hours we pay them X amount.
14 I don't remember the dollar amount.

15 **COMMISSIONER ARGENZIANO:** And let me ask another
16 question. I hope it's appropriate, but just to ask because I'm
17 really curious about this. And I know a level playing field is
18 very important for any business in the state of Florida as it
19 is in the nation. Do you ever lobby -- because I know you guys
20 have tons of lobbyists -- do you ever lobby that the other side
21 become where you are rather than you go down?

22 **MR. GREER:** I would. Not being a lobbyist, but --

23 **COMMISSIONER ARGENZIANO:** And I never heard the
24 company, you know --

25 **MR. GREER:** And I may get smacked in the back of the

1 head, but I think our effort is that competition is the better
2 way to go as far as versus the regulation. And I think we have
3 understood the discussions when we originally started this
4 proceeding in trying to get rid of all the rules, and listened
5 in the workshops about, you know, the elderly, or the people
6 that just need a phone, and that's one of the reasons why we
7 went to the basic piece is leaving that somewhat under
8 regulation, even though carrier of last resort has gone away,
9 and there's a big distinction between those two.

10 **COMMISSIONER ARGENZIANO:** With all due respect, when
11 you talk about, you know, I guess take certain places where it
12 hurts less. Not having phone service to me is the worst. To
13 me saying now we are going to let you stay another 24 hours
14 without phone service, I think that's the wrong way to go. I
15 can see maybe cutting corners somewhere else, but not when it
16 comes to actually not having a service you are paying for now
17 to get fixed in at least 24 hours.

18 And let me just emphasize this; I want to get this on
19 record and I want to say it loud and clear. I have always
20 believed in competition. But it's just like having a union
21 versus the big business. If you don't have the union, the big
22 business is going to inevitably somehow maybe take advantage of
23 its employees. And then the union does the same thing. It
24 goes overboard and actually hurts the business, which then
25 hurts the employees.

1 The same thing here. Competition is very, very
2 important. And I'm going to say it loud and clear because I
3 want it understood, because we can throw that word around so
4 easily sometimes. But if you don't have true competition,
5 which means the ability for the consumer to go at any point
6 somewhere else, then you can't throw it around that easily,
7 except for maybe in the heart of Miami and the heart of
8 Jacksonville and the heart of Tampa. That's where my concerns
9 focus in.

10 So I want it understood now that I believe that
11 competition is extremely important to providing consumers and
12 the businesses that are there in our state that we want to keep
13 there a healthy environment. But only if it's really true
14 competition. So I don't want it posed as being
15 anticompetition. That's not true. Because you do need a
16 certain amount of regulation sometimes because it needs to be
17 those checks and balances. I do agree that competition is
18 probably the best way to go, but not totally unregulated
19 because we don't have true, in my opinion, competition for
20 everyone in the state of Florida.

21 And for those other people who are not in those
22 areas, they need somebody to watch out for them, too, because
23 they need those services provided.

24 Thank you, Mr. Chair.

25 **CHAIRMAN CARTER:** Thank you.

1 Commissioner McMurrin has been very patient. So,
2 Commissioner McMurrin, you're recognized.

3 **COMMISSIONER McMURRIAN:** Thank you, Mr. Chairman.

4 And it's quite okay. I've enjoyed the discussion. I
5 will say, first, that I agree with a lot of what has been said,
6 particularly the discussion we just had. Commissioner
7 Argenziano talked about that she wouldn't want to be
8 characterized as not being for supportive of competition. And
9 most of you know that I have some pretty strong feelings about
10 a lot of these issues, and that we have talked a lot about the
11 value of competition to the consumer in the past. And I wanted
12 to go over a little bit of my thoughts there and respond to
13 some of the things that have come up and just share where I am.

14 But I guess I wanted to say first, Mr. Twomey had
15 said that it was either you are for inconvenience and
16 aggravation of the customer or you are not. And I just don't
17 think you can simplify it that easily. I think that because of
18 competition and because of the direction that we have from the
19 Legislature that says we have certain rules or certain statutes
20 are still in place about how there should still be a certain
21 level of maintenance and all for the customer, and I agree that
22 those are there and those are the statutory authority that are
23 quoted for a lot of the rules.

24 At the same time you have statutory language in the
25 beginning of the statute, and I think a lot of what was

1 referenced that said we see that competition is coming and to
2 provide more of a level playing field we think that the
3 Commission should be looking at streamlining regulations where
4 it can to promote that competition.

5 But I do agree with Commissioner Argenziano that that
6 level of competition is not there with regard to each and every
7 service, but our rules focus on telecom service. And in the
8 telecom world, there's a good bit of competition for that.
9 There may not be high speed Internet service, for instance, in
10 every area, but there is probably some telephone choices in
11 most areas. And there are areas, of course, and I'm from a
12 rural area, where a wireless phone may not work in someone's
13 home. And in a sense that is not really a competitive
14 alternative for them, because if it's can't work in their home,
15 they can't really afford to cut their cord because they need a
16 phone at home.

17 I agree with all of those things, and so there is
18 definitely not perfect competition. But I guess that brings me
19 back to sort of where we are versus where we started. And
20 where we started, I think, the petitioners were suggesting that
21 we get rid of a lot of the rules. And there are some of these
22 rules that I think probably should go. You know, I think we
23 have reached some level of compromise that's probably better
24 than that already.

25 But the reason I point that out is because, of

1 course, we started out with the market test; and,
2 unfortunately, probably the first workshop we had where we
3 should have been focusing more on exactly what service quality
4 standards and all should be out there, we focused on the market
5 test. And I don't think it was bad idea, I just think we kind
6 of got hung up on it when maybe we should have been talking
7 about what we are talking about today.

8 And so we haven't had as much discussion about each
9 and every one of those rules that we now have to make a
10 decision over, and I think that's somewhat unfortunate. But,
11 anyway, I think after we move from that point that the
12 compromise was reached between some of the parties about giving
13 up that market test. And, again, that's fine that we are
14 there. And now we are at the point where some of the parties
15 have said we think that we ought to carve out basic service.

16 And I, frankly, thought that that was a huge
17 concession. And the reason why, and Commissioner Argenziano
18 talked about, you know, that she has the bundle and that sort
19 of thing. And I have that, too. Customers with those bundles,
20 with a lot of those packages, of course, are large revenue
21 generating customers. And I think that for the most part the
22 companies are still going to make sure that those very large
23 generating -- those large revenue generating customers are
24 still provided a certain level of service quality. And, in a
25 sense, that we don't in our oversight role have to worry about

1 those customers in the same way that we have to worry about
2 some of the customers who may not have some of the choices, or
3 that just simply don't want choices, but they still need that
4 landline phone in order to call for emergencies, or call for
5 help, or even just to reach their friends. And they still
6 should have some level of service quality there, at least our
7 statutes, I think, still suggest that.

8 So I guess what I'm trying to get at is with the
9 concession, again, I believe was huge about carving out basic
10 customers. I think those customers that we have been talking
11 about in a lot of these proceedings, being most worried about
12 because they didn't have as many options, I believe that they
13 will still be taken care of because they will still be subject
14 to the service quality rules that would be on the books.

15 And then those customers like Commissioner Argenziano
16 and myself that might have a lot more of the bundled packages,
17 those customers are already exercising some competition. And
18 while we may not have a competitive offering for each and every
19 part of that, again, we probably are going to be taken care of
20 pretty well because of being a good revenue generating
21 customer. And there will be more and more competition, so
22 those companies are going to want to make sure they provide
23 good service to customers like that. And I think the other
24 important thing is just because the standards or objectives
25 might change somewhat, it doesn't necessarily mean that the

1 service should degrade. It does allow for more flexibility
2 there, but I'm hoping that we won't actually see the
3 degradation of service.

4 I think a lot of these, for instance, the one we were
5 talking about, about the 24 versus 48 hours, and the
6 flexibility to, for instance, address -- if you have an
7 out-of-service on the same street with some service-affecting
8 problems, that a technician isn't forced to, you know, run
9 across town to make sure they meet the out-of-service standard
10 time instead of going ahead while he's there and addressing the
11 other problems on that same street. It's that sort of
12 flexibility, I think, that seems important.

13 And I guess lastly I'll say that I think that there
14 has been some discussion about what level of service quality a
15 customer wants, and I don't think our rules necessarily capture
16 what service quality the customer wants. I don't think we
17 really know. There has been a lot of changes in what a
18 customer expects. And even today we heard from Mr. Worley. I
19 think a lot of his service quality concerns were more about the
20 fact that he wants more things in his bundle. And that's, of
21 course, things we don't have jurisdiction over; so we can't
22 require things to be bundled together by the companies.

23 But I guess what I'm saying is I think that it's good
24 to have some kind of oversight role as long as the Legislature
25 wants us to have it. But I think that we might be looking at

1 what we have and suggesting that any kind of change is bad,
2 when maybe the customer doesn't care that much about the change
3 from 30 seconds to 90 seconds. I don't like to wait longer, I
4 think no one does, and I have had some similar situations to
5 Commissioner Skop about waiting on the phone quite a long time
6 with some unregulated entities. But, again, I'm just not sure
7 that we have a good grasp on exactly what's important to the
8 customer, and I think the competitive market does provide some
9 of that.

10 The customer has an experience, perhaps, with one and
11 they don't like it, they may be able to move. They may not be
12 able to move in all cases, I agree with that, Commissioner
13 Argenziano, but I do believe that because of what the statutory
14 references that were mentioned earlier, that we have -- that we
15 probably should look at our regulations and provide some
16 streamlining and some relaxation of those rules to afford some
17 of those companies to redirect some of the -- redirect some of
18 their efforts toward providing the customer service that
19 perhaps a customer really want, and maybe not these rules that
20 we have had on the books for a long time.

21 Anyway, I know I went on for a long time, but I hope
22 that was helpful.

23 **CHAIRMAN CARTER:** Thank you.

24 Commissioner Argenziano.

25 **COMMISSIONER ARGENZIANO:** And I certainly understand

1 Commissioner McMurrin's thoughts on that. I disagree in
2 several places, only because I think after hearing from my
3 constituents for over 12 years in the Legislature, I have a
4 pretty good idea of what they expect. And as a Public Service
5 Commissioner I hear from them again. And I think that what I
6 have heard -- you know, I think when it comes to the answer
7 time from 90 to whatever it was, I don't think that's a great
8 big deal, and I understand OPC's concern on that.

9 But I can tell you that moving -- when you have no
10 phone at all, going from 24 hours to 48, you are going to hear
11 from some people. And I can tell you without doubt that that
12 would be something I think that they do not want. And I'm
13 fairly certain on that one.

14 When you can't move somewhere else, and I'd like to
15 really find out, because I can tell you a lot of people that I
16 talk to that I poll don't have the ability to move somewhere
17 else. I think when you are talking about just the landline,
18 you will find landline competition far more than anything else.
19 But just as we have heard from staff and others, people are
20 moving to cell phones at a larger and larger pace. And part of
21 that is the portability, except if you live in an area where it
22 doesn't work. I would love -- and I think you had called it a
23 larger customer when you have bundled services. I disagree.
24 It's a very small amount for three services. I shouldn't say a
25 small amount. A reasonable amount for three services rather

1 than having them independent. But that was the whole argument
2 of getting into the bundled service that it would be cheaper
3 for you to have these bundled services than doing three of
4 these things independently, television, phone, and Internet.

5 But when it gets to the point that now you are
6 suddenly paying more for those bundled services than you were
7 originally with them independent, and you can't get a cell
8 phone where you live, or you are tied into a contract and you
9 only have the landline, then that decreases your ability to
10 join the competitive bundled services that we're saying now the
11 customer has so much more that they can go out to. So if I am
12 in an area, as many people are, where your cell doesn't work,
13 and you want Internet, because most people want it, and you
14 want cable, or you want to combine those services, they are
15 excluded to me unless I go to that one company who has got me
16 stuck there.

17 And what I'm telling you is that's many, many places.
18 It may not be in the heart of Miami or in the heart of the City
19 of Tallahassee, but all of those surrounding areas you have
20 people who can't simply do -- you know, it may be great, they
21 can get a landline, but they can't get the bundled services,
22 which is supposed to be how people start saving money.

23 And this was the whole argument about why Comcast
24 wanted to get in and so on, so that people can be afforded
25 those services for less than what the old antiquated ways were.

1 And now by saying that, you know, you can get a landline
2 changed more frequently even in a rural area because there are
3 more companies who can do that now the way we have structured
4 things, but you can't get those bundled services or the cell
5 services. So you are, thus, then defeating competition, and
6 you are giving the company, the one company that may provide
7 that service in that area carte blanche to keep raising and
8 raising and raising, and the customer can't go anywhere else.

9 So in the same sense that we want to promote
10 competition in many areas of the state of Florida we are
11 disincentivizing people because there is no ability for them to
12 get those bundled services or combined services at a cheaper
13 rate. You can get the landline, because, yes, you can call all
14 kinds of companies and they use the access lines, it's much
15 easier to do that, but you can't get the other services which
16 are what the people are moving towards and all the numbers show
17 you that they are moving towards. So you are not actually
18 feeding competition in those areas, you have stifled
19 competition.

20 And that's my comment to the companies is I think
21 what I would be doing if I worked for the companies was
22 lobbying the legislatures and the federal government, too, to
23 put you all on a level playing field so that you can get more
24 than one carrier for those bundled services in a particular
25 area and all at the same regulations regarding, you know, what

1 kind of services you have to provide.

2 So your arguments are good ones, except for those
3 many people who can't go the route that you think they have,
4 and that's where I get concerned. But in those other areas
5 where they can, it's great. It works wonderful. Being one of
6 those customers, and understanding through the rural areas that
7 I have had, they can't get those services. So it is not just
8 as easy as just saying that the competition is out there. The
9 landline, yes, maybe, but they can't then take advantage of
10 what everybody else wants to do, and thus it is just not
11 competitive.

12 **CHAIRMAN CARTER:** Thank you, Commissioner.
13 Commissioner Edgar, you're recognized.

14 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

15 And I think -- let me make a comment, and then I'd
16 like to ask the one ILEC reps and also one of the consumer
17 reps -- excuse me, one of the ILEC representatives and one of
18 the consumer representatives to speak to it. And I think this
19 follows up with what Commissioner Argenziano and others have
20 been saying and asking. In fact, it's probably redundant, but
21 sometimes it helps me to put it in my own words and pose it
22 back.

23 **CHAIRMAN CARTER:** Commissioner, excuse me. At the
24 risk of enduring the wrath of my grandmother from heaven, this
25 is not bad manners, it's good form, is that I just paid

1 attention to the clock on the court reporter. If you could
2 remember your question, I will just -- I mean, it's a very
3 spirited and exciting discussion that we are having here, and,
4 of course, I got a break, but she didn't.

5 So let's do this, Commissioners. I'm looking at --
6 there's a different time on each one of them. What do you say,
7 ten after? We will be on recess until ten after for the court
8 reporter.

9 (Recess.)

10 **CHAIRMAN CARTER:** We're back on the record. I was
11 trying to get through the agenda without having Commissioner
12 Skop mention that the Florida Gators are playing for the
13 National Championship, but I couldn't calm him down.

14 So that's Thursday night, Commissioner?

15 **COMMISSIONER SKOP:** Thursday night. Unfortunately,
16 we have RPS the next day, so I can't be at the game.

17 **CHAIRMAN CARTER:** So he'll come in blurry-eyed on
18 that. With that, Commissioner Edgar, you're recognized.

19 **COMMISSIONER EDGAR:** Thank you.

20 And I'm going to go ahead and pose the same question
21 that I was going to, but upon further thought, instead I would
22 make to pose it to staff and go from there.

23 Okay. As I started to say, probably what I'm asking
24 is redundant to the discussion we have had, so I apologize for
25 that, but it is helpful for me to kind of frame it in my own

1 words, and pose it back. So I think on a very high level, to
2 summarize, what I'm hearing from the ILECs and the
3 documentation that has been filed and discussed at workshops is
4 that they are asking to eliminate some of the rules so that
5 they can redirect resources more efficiently and better compete
6 with their competition.

7 But we are also hearing from both, you know, personal
8 experience and from the consumer representatives concern about
9 there being many areas without competition, and a concern that
10 if the rules were relaxed or eliminated, that those areas would
11 perhaps suffer. Suffer is the wrong word, I apologize, but
12 would see a more heightened level of change in service quality.

13 So I'd just kind of, to pose those two, because both
14 of those points make sense to me. I mean, the point about --
15 an overused phrase, but maybe leveling the playing field from a
16 regulatory standpoint, that makes sense to me; but concern
17 about areas without competition, and having perhaps less
18 regulatory oversight or protection, that makes sense to me,
19 too. So my first question with that is if you could just kind
20 of talk to me about those two points, and then also address
21 generally how the staff approached that with the recommendation
22 that you have made.

23 **MS. SALAK:** I'm going to start with your second
24 question because that is an easier one for me.

25 **COMMISSIONER EDGAR:** Okay.

1 **MS. SALAK:** First of all, our approach was that we
2 recognized there is competition. I mean, flat out we recognize
3 there is competition in some areas, and we recognize that there
4 are other areas that it is not flourishing, as well. And we
5 also recognize, as mentioned in Ms. Cowdery's opening, that we
6 think there are conflicting statutes, one -- well, not
7 conflicting, but two different statutes. One that says that we
8 need to recognize competition and streamline things as
9 competition grows. The other is that during the transition we
10 will provide consumer protections, and that the consumer
11 protections, of course, would be particularly for the areas
12 that don't have as much competition. So that was our approach
13 was we wanted to see what areas that we could streamline, give
14 more flexibility to the company, but still maintain what
15 consumer protections might be necessary for the areas that
16 didn't have it.

17 And flexibility, as mentioned previously, we did
18 aggregate exchanges when you are looking at repair service, we
19 did combine the out-of-service and the service-affecting so
20 that they could do a more efficient rolling of their trucks and
21 hit certain neighborhoods and areas.

22 Aggregation, it gives them a little more flexibility
23 in how they actually do their repairs. Again, I mentioned as
24 one of our -- we are concerned about rural areas, also, that's
25 why we did the less than 50,000 and the more than 50,000 lines

1 so that we could make sure that there was at least some kind of
2 parity in between -- or at least not a degradation in the rural
3 areas. That was our approach is that we wanted to give as much
4 flexibility as we could while maintaining consumer protections
5 where we thought they were still necessary.

6 And your second question is that there are certain
7 areas that -- yes, I think there are certain areas of the state
8 that have more competition than others. I think that we don't
9 have a really good handle on all the broadband issues, per se.
10 We don't know where that's heavy duty in the state, and I think
11 that is something we need to pursue and look at further to see
12 where the bundles can be offered with everything else. But
13 recognizing that this agency basically has authority over
14 telephone, and wireline telephone at that. And in the
15 competition report -- we are back to the competition report we
16 were talking about earlier.

17 One of the things that we mentioned is there are a
18 lot of people that are selecting alternatives to wireline. But
19 we never said that it was at the same cost, same price. These
20 were all just things that the consumer was making that choice,
21 whether it be more expensive, less expensive. But we do see a
22 lot of consumers moving off wireline. And remind me of the
23 rest of your question, I'm sorry.

24 **COMMISSIONER EDGAR:** That's okay. You have addressed
25 it, and I thank you for that. And just as a follow-up, as you

1 have mentioned with broadband and the availability, you know,
2 and where and mapping, and I raised that as a question,
3 Commissioners, at IA -- I'm going to say recently, I don't
4 remember when it was, but not too long ago. And I have talked
5 with the staff about it, and that is something that I would
6 like us to have a further opportunity to look into at some
7 point. I fully recognize that we don't have regulatory
8 authority, but I am interested in knowing what the data is that
9 is out there. And then taking it to the next question which
10 would be, you know, if not us, then who is kind of looking at
11 those issues. But that is not a discussion for today.

12 We have heard concerns from -- well, from everybody,
13 I think, about the impacts or potential impacts on service
14 quality with some of the changes that have been requested, and
15 potentially changes that have been recommended by Staff. So I
16 guess if it is all right, I'd kind of like to take to the next
17 question to help me focus that, and if I can ask you to use
18 this spreadsheet that I think was distributed to all of us.
19 It's headed summary comparison chart, which is a staff work
20 product. And if working from this document --

21 **MS. CLARK:** Mr. Chairman, can you tell me which
22 document I should be looking at.

23 **COMMISSIONER EDGAR:** I'm sorry, and I apologize, for
24 some reason I thought that everybody had this. And if not, if
25 there is a better way to do this, I can pose my question and

1 figure out or maybe you can hand it out. What I'm looking at
2 is a landscape version, three pages. It's headed with the
3 docket numbers and says summary comparison chart. There are
4 three columns: One column, current rule; a middle column,
5 staff proposed; and third column, party's position as staff
6 believes it currently --

7 **MS. SALAK:** We passed that out to the Commissioners,
8 but the parties do not have it. Would you like us to make --

9 **COMMISSIONER EDGAR:** Oh, okay. Well, I apologize
10 then. I did not realize that.

11 **MS. CLARK:** We would be happy to use our spreadsheet.

12 **COMMISSIONER EDGAR:** Well, let me ask the question,
13 and then if there's a better way for us to work through, I just
14 thought that might be a handy document.

15 **MS. SALAK:** We can always make copies.

16 **COMMISSIONER EDGAR:** I'm going to leave that to you
17 all. Here is what I wanted to ask. From the rules that are
18 under discussion today, and from the item that is before us, if
19 staff could point out specifically those that address the
20 service quality issues that have been raised more specifically
21 in our discussion today.

22 For example, we have talked about answer time, we've
23 talked about repair time, and probably a few other points. And
24 point me and us to the rules specifically that address those
25 concerns. I don't need to walk through every rule one-by-one,

1 but those that address those service quality concerns that have
2 been raised today, and then briefly what I was going to ask is
3 for staff to speak to their recommendation on those. And I
4 wasn't trying to make that a gotcha sort of question. And if
5 you need me to rephrase that, I'll try.

6 **MS. SALAK:** We will try to respond to what they did
7 here today. I haven't read it thoroughly. I have been trying
8 to listen instead of read, but we can do --

9 **COMMISSIONER EDGAR:** Well, I guess, then -- yes.
10 Again, answer time and repair time are two service quality
11 issues that have been raised specifically, and I feel like
12 there is one or two others that just aren't coming to my mind,
13 and I welcome being reminded.

14 **MS. SALAK:** We can certainly articulate what we want
15 to do, and maybe the company can articulate what they want to
16 do, and maybe that would be the easiest.

17 **CHAIRMAN CARTER:** Hang on one second. Let's yield
18 for a moment.

19 Commissioner Skop.

20 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

21 And I think the methodology suggested by Commissioner
22 Edgar would be very helpful to the extent that I think that
23 that focuses in on the controversial parts. But also, too, at
24 the break, Mr. Chair, the opportunity to look at the handout
25 from Ms. Clark. And I think once we proceeded from the staff's

1 summary chart, then if we need to parse the language or look at
2 specific details, the language that was provided on Ms. Clark's
3 summary might be helpful in that, too.

4 Thank you.

5 **COMMISSIONER EDGAR:** And that's fine. I was just
6 trying to kind of hone in on those points that have been
7 raised, and obviously lots of rules numbers, if you could help
8 bring my attention, anyway, to those more specific points.

9 **CHAIRMAN CARTER:** We would appreciate that,
10 Commissioner, because that does kind of bring us in, because
11 there has only been several -- as you mentioned, the service
12 quality and the time of those, but we have got several other
13 rules here that we were looking at, and that will probably get
14 us on down the road, as they say, where we need to be.

15 And we do have someone making copies, is that
16 correct? Okay. Can we proceed? Because I think the first one
17 just says application and scope. Mr. -- Sting, what have you
18 got?

19 **MR. MAILHOT:** I think, Commissioner Edgar, you wanted
20 to focus on just a few of the rules of the 16 that are --

21 **COMMISSIONER EDGAR:** Yes, sir. Yes.

22 And, again, the repair time, answer time, and, I
23 apologize, installation.

24 **CHAIRMAN CARTER:** Installation.

25 **COMMISSIONER EDGAR:** Thank you, Mr. Twomey.

1 Installation time. Repair time, answer time, installation
2 time. And, Commissioners, if there's any other specific --

3 **CHAIRMAN CARTER:** I think that was --

4 **COMMISSIONER EDGAR:** -- customer service that you
5 would kind of like to throw in at this point.

6 **CHAIRMAN CARTER:** Mr. Beck or Mr. Twomey, that is
7 correct, isn't it?

8 **MR. TWOMEY:** Mr. Beck knows better than I do.

9 **CHAIRMAN CARTER:** Mr. Beck. I think it was just
10 those issues.

11 Yes, sir. Thank you. Big is better. Bigger is
12 better.

13 **MS. SALAK:** Those rules would be 25-4.066,
14 availability of service; the second one would be customer
15 trouble reports, which is 25-4.070.

16 **CHAIRMAN CARTER:** 070.

17 **MS. SALAK:** That would be the repair. And then
18 25-4.073 is the answer time.

19 **CHAIRMAN CARTER:** 073. And on your chart,
20 Commissioners, I guess it would be Page 2, the last one on Page
21 2.

22 **MS. SALAK:** Yes, sir.

23 **CHAIRMAN CARTER:** And those would be --

24 **MS. SALAK:** And Mr. Mailhot is going to describe for
25 you our version of the rules.

1 **CHAIRMAN CARTER:** So we are all on one page. Not one
2 page, but certainly on the same page. 25-4.066, availability
3 of service. That is on Page 1 of this chart. On Page 2 of the
4 chart would be 25-4.070, customer trouble reports, and also on
5 that same page would be 25-4.073, answer time. And I think
6 that gets us to a good place for our jumping off point for our
7 discussion. And, let's see, what's our time frame on copies so
8 we can proceed.

9 **MS. SALAK:** The Clerk's Office is making them as we
10 speak.

11 **CHAIRMAN CARTER:** Let's do a standing in place.
12 Nobody leaves the building otherwise -- no, just kidding.

13 **MS. SALAK:** Sir, I think we could go ahead and
14 explain our rules, because they have those already.

15 **CHAIRMAN CARTER:** You may proceed. Staff, you may
16 proceed.

17 **MR. MAILHOT:** If we start with 25-4.066, availability
18 of service, that's basically your rule for installing phones.
19 Staff's proposed change, there are two primary changes, one is
20 to increase the installation time from three days to five days,
21 and the second change is to exclude customers who are also
22 ordering Internet or video service at the same time that they
23 are ordering telephone service. So it basically limits the
24 application of this rule to those customers who are ordering
25 phone service. So if I'm a customer and I am ordering Internet

1 service or anything else at the same time, this rule doesn't
2 even apply to me.

3 **CHAIRMAN CARTER:** Commissioner Skop.

4 **COMMISSIONER SKOP:** Thank you, Mr. Chairman. With
5 respect to that particular rule, on the staff proposed, on that
6 chart, the distinguishing between basic service and, I think,
7 primary service, would it be correct to understand that in
8 terms of the ILEC request if you were ordering basic phone
9 service with features, would that or would that not under the
10 ILEC definition, or ILEC proposed rule change?

11 **MR. MAILHOT:** Our belief is that the ILECs are --
12 this issue arises in several of these rules. The distinction
13 between basic and somebody who's getting telecommunications
14 service. Our belief is that if a customer orders basic service
15 plus custom calling features at a discount and gets what they
16 call a bundle, even if it's just telecommunications features,
17 that that customer would be excluded, that this rule would not
18 apply to them. Maybe the companies can confirm that that is
19 their --

20 **COMMISSIONER SKOP:** And, Ms. Clark, if you could
21 elaborate on that. And also, perhaps, add if one is
22 establishing basic phone service and having a work ticket
23 order, why the whole features would be excluded.

24 **MS. CLARK:** If I may, Mr. Chairman.

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

1 **MS. CLARK:** Mr. Greer will respond to that.

2 **MR. GREER:** Commissioners, essentially the way the
3 statute is set up is there is basic and nonbasic services. The
4 way that we have always done the pricing is that basic service
5 is essentially single-line res, single-line biz, and nonbasic
6 service would include those bundles, if you will, for a set
7 price.

8 Mr. Mailhot used discount, but essentially the
9 companies have developed a package and set it at -- you get the
10 line, you get Feature A, Feature B, Feature C for 30 bucks.
11 And that's a single price on the customer's bill and that's the
12 services that they get.

13 **COMMISSIONER SKOP:** As a follow-up to that point, and
14 not to belabor this issue, but I'm trying to better understand
15 the position of the parties. If I didn't go with the bundle
16 and I put in a work order for basic phone service plus one
17 feature, for instance, call blocking, would it be correct to
18 understand that that would not qualify under the rule?

19 **MR. GREER:** No. The way we have it, if you have a
20 line -- if you get basic service, a single line and an ala
21 carte feature, say Caller ID, and you put that on your line,
22 then that would be included in the definition of basic.

23 **COMMISSIONER SKOP:** Thank you.

24 **MS. CLARK:** Mr. Chairman, I was just --

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

1 **MS. CLARK:** If that satisfied the Commissioner,
2 that's fine.

3 **CHAIRMAN CARTER:** Okay. Commissioners, any other
4 questions on 25-4.066, availability of service?

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

6 **CHAIRMAN CARTER:** Hang on one second. I see
7 Ms. Perry stood up. I think she wants to be heard.

8 Ms. Perry, you're recognized.

9 **MS. PERRY:** I just wanted to remind the Commission,
10 .066 is the rule that Commissioner Argenziano and I had a
11 conversation about. They were going to do away with one rule,
12 and we were concerned about the other rule being stronger, and
13 this .066 we were told by Staff would take care of the other
14 rule. So we're a bit concerned that now there's a change in
15 this rule that the staff said was stronger than the language in
16 the rule that we did away with already. So it's kind of a
17 downgrading of a rule that we already had a discussion about.

18 I don't know if you remember our conversation about
19 it, but there was another rule that was going to be done away
20 with, and I had concerns because I thought the language was
21 stronger in the other rule. And the Commissioner asked the
22 staff if it was stronger or if it was addressed in another --
23 do you remember?

24 **MR. MAILHOT:** I think I can address her concern.

25 **CHAIRMAN CARTER:** Mr. Mailhot, you're recognized,

1 sir.

2 **MR. MAILHOT:** Thank you.

3 Specifically, I think it was the first agenda that we
4 came to with the rule changes. There was a rule, applications
5 for service, where the company was supposed to be telling us if
6 they weren't getting people's phones installed for more than a
7 certain period of time, I forget if it was 30 days, or 60 days,
8 or some period. And within this rule that we are talking about
9 today there is a reporting requirement where they have to
10 report, you know, actually provide us a report on a quarterly
11 basis that shows the number of phones that have been held for a
12 certain period of time, you know, where installation has been
13 delayed.

14 Well, that reporting requirement is still in there.
15 We are not actually changing that reporting requirement. Even
16 though it's sort of tied to this rule, that reporting
17 requirement is not one of the changes that we are proposing.

18 **MS. KAUFMAN:** Mr. Chairman, I'd like to make a
19 comment at the appropriate time. I don't want to interrupt the
20 flow, but --

21 **CHAIRMAN CARTER:** Is it related to where we are now
22 on on 25-4.066?

23 **MS. KAUFMAN:** It is related to these three rules that
24 you are discussing, yes.

25 **CHAIRMAN CARTER:** No, no, no. I'm not talking about

1 three rules; I'm talking about one rule now. I'm talking about
2 Rule 25-4.066.

3 **MS. KAUFMAN:** It is, but my comment is the same. So
4 if you want me to wait until the end, that's fine.

5 **CHAIRMAN CARTER:** Well, fire away, but this is what
6 we are dealing with right now.

7 **MS. KAUFMAN:** I understand. And the only point that
8 I wanted to make goes back to the point that I made when we
9 started out this morning in regard to our stipulation language,
10 and the fact that if you have some protections on the wholesale
11 side, then you might have some more comfort on the retail side.

12 For example, if the installation time goes from three
13 days to five days on the retail side, and that is deemed a
14 change in the plan, then the installation time is going to
15 degrade that way on the wholesale side, as well. So that means
16 that someone who seeks a competitor, and the competitor has to
17 rely in some way on the ILEC, that same degradation -- and I
18 know there is a difference of opinion about whether any
19 degradation will occur or not, but that, as I understand it, is
20 going to be applicable to the wholesale side. And that is why
21 we agreed to put in that stipulation language that I mentioned
22 long ago so that we maintain the same standards that were in
23 place in October for the retail -- excuse me, for the wholesale
24 SQM and SEEMs plan regardless of what you do with these rules.

25 **CHAIRMAN CARTER:** Commissioner McMurrian.

1 **COMMISSIONER McMURRIAN:** Now I'm really confused, Ms.
2 Kaufman, because I thought I understood when we started --

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

4 **COMMISSIONER McMURRIAN:** Oh, thank you. I'm sorry,
5 Chairman.

6 When we started today, I thought I understood what
7 your concern was given what the language was in the staff rec.
8 And as I understand it, I think staff was just trying to be
9 real clear that they think that some of the changes that they
10 would be proposing in their draft might have some effect on
11 SEEMs and SQM, and so they didn't want to suggest to us that we
12 put language in our order that said it would have no impact.

13 I don't think that meant that they didn't necessarily
14 agree that you all had made some concessions with each other
15 and stipulated that, you know, there wouldn't be some changes,
16 and I do think we need to deal with that, and I guess we are
17 dealing with it now. But what you just said, I guess, confused
18 me a little bit because I thought you all had agreed that
19 amongst yourselves, and I see sort of heads nodding different
20 ways about what the agreement is now, and so --

21 **MS. KAUFMAN:** Well, I thought we had -- sorry.

22 **COMMISSIONER McMURRIAN:** Well, I think -- I mean, it
23 doesn't seem like from the point that you all agreed about the
24 SEEM and the SQMs in this document we have here that there has
25 been any changes that should have changed that other than the

1 clarification, I think, that staff was trying to make to us
2 that they didn't want us to think -- well, let me back up.
3 That retail and wholesale should -- they wanted us to
4 understand that retail and wholesale should be provided at
5 parity. So if you have retail changes, then for it to be
6 provided at parity for the wholesale side, then if your
7 standard is different on the retail side, then I guess that
8 standard would also apply on the wholesale side.

9 It doesn't necessarily mean there would be
10 degradation on either side, but I guess the rules would be
11 relaxed, and so that, perhaps, there would be the same
12 relaxation of service on the wholesale side. But now I'm
13 starting to think that maybe you all don't understand each
14 other, because I definitely don't understand you all now on
15 that issue.

16 **MS. KAUFMAN:** What you just said, Commissioner, is
17 exactly the point, and that is that we agreed that what was in
18 effect at the time we signed the stipulation, say, for example,
19 on the rule we are talking about, the three days, that would
20 remain in effect on the wholesale side regardless of what you
21 do on the retail side.

22 And, yes, this was an agreement among the parties.
23 We agreed to request that you put this language in, and I guess
24 if there is a difference of opinion, we will live to fight
25 another day about that. But what our intent was was that what

1 was in place when we signed is what would remain in place
2 regardless of any rule changes that you might make.

3 **MR. BECK:** Commissioner, if I could add that when Ms.
4 Kaufman says between the parties, that's not all parties. That
5 is solely Ms. Kaufman and the ILECs.

6 **MS. KAUFMAN:** I'm sorry.

7 **COMMISSIONER McMURRIAN:** And I'm sorry about that.
8 And I understood that, but thank you for clarifying that.

9 **MS. KAUFMAN:** I didn't mean to -- between the ILECs
10 and CompSouth and Sprint-Nextel.

11 **COMMISSIONER McMURRIAN:** Okay. But I guess one
12 question, just to make sure that I understand, if we were to
13 change our rule with respect to .066 from three days to five
14 days as staff recommends, your understanding of your
15 stipulation was that on the wholesale side it would still be
16 provided at three days.

17 **MS. KAUFMAN:** Yes.

18 **COMMISSIONER McMURRIAN:** And I am seeing nodding,
19 shaking heads on the other side, so I think we do have -- I
20 don't want to make it more complicated than it already is, but
21 I think we have a breakdown in what the agreement was between
22 those two parties. And I appreciate, Mr. Beck, that that
23 doesn't include you all. That you all haven't acquiesced to a
24 change at all from that rule.

25 **MR. BECK:** But nor did we acquiesce that the

1 wholesale would remain constant while the retail changed.

2 **COMMISSIONER McMURRIAN:** Right. Thank you. Now that
3 I've pointed out that things are worse than we thought when we
4 started --

5 **MR. BECK:** Oh, no, no.

6 **COMMISSIONER McMURRIAN:** -- I will defer back to the
7 Chair.

8 **MS. KAUFMAN:** It was not my intent to do that.

9 **MR. HATCH:** Mr. Chairman, if I might respond.

10 **CHAIRMAN CARTER:** Mr. Hatch.

11 **MR. HATCH:** It, indeed, has now become more
12 complicated than we ever wanted it to be.

13 I guess two things: One is that when we entered into
14 the agreement with CompSouth we did not intend -- still don't
15 intend that any of the rule changes themselves would have any
16 effect on the SQM process, the SEEMs process, or any of the
17 measures in how wholesale service is provided.

18 Now, today, our obligation is to provide service at
19 parity. That may be better than what the rule currently
20 provides, it may be less than what the rule currently provides,
21 but that is our legal obligation.

22 Now, if what Ms. Kaufman suggests is where they want
23 to go, that is a fight we probably will need to save for
24 another day than today. I mean, today is not the forum to
25 determine whether or not what the appropriate level of

1 wholesale service is going to be. I mean, that is just really
2 not part of the docket; and, believe me, you really don't want
3 to get into that.

4 But the bottom line of what Ms. Kaufman and I have
5 both agreed to is that if there is an effect that we don't
6 foresee that we don't agree is there today, then that is
7 Ms. Kaufman's avenue and her hook to come back and say there is
8 an effect and I want it changed.

9 Now, we may yet disagree whether it should be three
10 days or five days or whatever, in particular because SQM and
11 SEEM apply only to AT&T Florida, and the rule changes don't
12 apply to AT&T Florida because Florida has its SGP. So,
13 whatever we do under our SGP currently today, that's what the
14 CLECs get today and these rule changes will not effect that at
15 all under any circumstance.

16 **CHAIRMAN CARTER:** Well, let's not muddy up the water,
17 okay.

18 Commissioner Skop.

19 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

20 So if I understood the response to that was that the
21 wholesale side should not affect the discussion that we're
22 having currently with respect to the modification of proposed
23 rule, although there may be some disagreement and future impact
24 between the parties in terms of negotiations.

25 **MR. HATCH:** I think that's correct.

1 **MS. KAUFMAN:** I think that's correct so long as this
2 language is included in the rulemaking.

3 **MR. HATCH:** And we support the inclusion of that
4 language.

5 **COMMISSIONER SKOP:** AT&T does support the inclusion?

6 **MR. HATCH:** Yes, absolutely.

7 **COMMISSIONER SKOP:** Okay. And then one follow-up
8 question either to Ms. Clark or AT&T. With respect to the
9 bundling of features on basic telecom, I guess I'm wanting to
10 be fair, and I'm trying to understand where features are so
11 readily implemented in the same work order, why is that such a
12 point of contention in terms of including the features versus
13 if you order features, bundled features excluding that from
14 falling out of the rule?

15 **MR. HATCH:** I'm not sure I understand your question.
16 If I understand your question correctly is if it is ala carte,
17 why is that different than a bundle?

18 **COMMISSIONER SKOP:** Yes.

19 **MR. HATCH:** Because the ordering process, A, is
20 completely different. When you order a bundle, you order a
21 whole package of a whole bunch of different things. There is
22 one price for it. When you order ala carte, you have your
23 basic service, which is your single line, and then each
24 individual feature that you add and order specifically and
25 independently, and all of your ordering and billing is done

1 independently. You will have a series of order codes that
2 apply to each of these different things, and on a bundle you
3 will have one order code that says here's the bundle.

4 **COMMISSIONER SKOP:** But shouldn't that one order code
5 facilitate actually like a quicker installation than instead of
6 having to code multiple things you have just got one -- I'm
7 just trying to better understand.

8 **MR. HATCH:** It may or it may not. That's getting
9 deeper into the operational side that I don't know.

10 **CHAIRMAN CARTER:** We want to stay out of the weeds if
11 at all possible.

12 **COMMISSIONER SKOP:** Yes, I'm trying to stay out of
13 the weeds.

14 **MS. CLARK:** Mr. Chairman, you know, getting to that
15 point, I think that what you are focus should be and what we
16 have focused on in the rules is what the statute calls for you
17 to focus on. And as you have said, Commissioner McMurrian,
18 those people who want that basic voice grade service, and you
19 have the concern about the quality of service for them, and
20 that is what our compromise is directed at.

21 And with those bundles there would likewise be an
22 incentive to provide them good service, as well, but in terms
23 of measuring for the purposes of these rules, I would also like
24 to point out that nothing you do here today is intended to
25 change what is in the bundles or the pricing of the bundles.

1 That's not why we are here today. We are just here to sort of
2 address the issue of the quality of service, and what we hear
3 you saying is that we need this safety net to protect that
4 basic telecommunication residential customer to assure that
5 they get a quality of service, and that's what we have offered
6 and suggest to you is appropriate in these amendments that we
7 have provided.

8 **COMMISSIONER SKOP:** Mr. Chair, as a follow-up.

9 And I appreciate that. Again, I'm trying to gain a
10 better understanding and appreciation and stay out of the
11 weeds, but to me this is a very subtle but important
12 distinction to the intent that I'm trying to rationalize the
13 difference in positions between staff's position and the
14 additional relief sought by the ILECs and trying to be fair and
15 impartial.

16 With respect to the bundled services on basic
17 residential, I mean, I guess in playing devil's advocate, I
18 could easily envision the case where I call up for my basic
19 residential phone service, and all of a sudden I get, oh, do
20 you want these bundled features? And I say yes, and suddenly
21 I'm not ensured any longer in getting my phone connected by
22 five days. Suddenly it might be more than that.

23 So I guess theoretically a marketing tactic could
24 cause consumers to unilaterally waive something that they might
25 expect. And so that's where I'm trying to understand why that

1 is so important for features that are just kind of like a quick
2 add on. It is not like something different like broadband or
3 cable or something like that. It seems to be directly related
4 to plain old telephone system, or POTS, and it is just a matter
5 of like a switch of coding something so it happens. So, again,
6 I'm trying to be accommodating, but I'm equally trying to
7 understand why that is such a point of contention.

8 **MR. GREER:** Commissioners, let me start with the high
9 weeds.

10 **COMMISSIONER SKOP:** And one follow-up, too. If I
11 ordered a bundled feature which would provide more revenue to
12 the phone service, which is something that according to line
13 losses, you know, the ILECs would appreciate, then I would
14 certainly be more inclined to honor that commitment so I could
15 get that customer up and running. So if you could elaborate on
16 that just briefly.

17 **MR. GREER:** Okay. Commissioner, let me start at the
18 high weeds.

19 Essentially, the main reason that I see the
20 difference between the single line ala carte versus the bundle
21 is the fact that the statute itself handles one as basic and
22 one as nonbasic. And that's a big distinction between the two.

23 Now going a little further down, which I want to be
24 careful not to go too far, but operationally, a company, even
25 though you only have a rule that says for single-line res and a

1 feature, operationally you are going to have to probably handle
2 those exactly the same regardless. Because, you know, it would
3 be very difficult to dispatch. Okay, well, I've got a complete
4 choice customer, which is our bundle, AT&T Florida's bundle,
5 and I'm going to dispatch on that because we want them to go
6 earlier or later.

7 Generally, as we indicated in some of the way we
8 dispatch, we dispatch them, they install, they repair,
9 everything in that area. That is the whole gist behind it. It
10 would be very difficult to degrade service for one residential
11 service versus another because they are running through the
12 same cable sheath, and it would just be inefficient to move
13 that way.

14 **COMMISSIONER SKOP:** And just as a brief follow-up,
15 and we will cut and run from this one, but, again, I think the
16 statutory argument is a good one. I can appreciate that
17 distinction. I guess what I see -- and, again, that's a bright
18 line distinction. But, likewise, too, the spirit around the
19 need for rule change has been competition. And to the extent
20 that if a consumer wants to add, you know, features that have
21 become mainstream today that didn't exist when I had the rotary
22 phones of days past, I guess the consumer could unwittingly
23 waive their install time by just accepting one of these bundled
24 features.

25 And then as a follow on to that, would AT&T or other

1 ILECs continue to offer ala carte as opposed to only offering
2 bundling or price the ala carte so it was not something that a
3 consumer would choose over a bundle to avoid compliance with
4 the rule? I'm guess I'm trying to just play devil's advocate.

5 **MR. GREER:** Clearly the ala carte would be more
6 expensive. That is the whole gist behind it. Now, for AT&T
7 Florida, you know, we have structured our SGP which is
8 structural totally different than the service rules themselves,
9 because what we try to do, and I think for the most part the
10 other companies try to do is ask the customer when they want
11 service installed and when they want us to provide the service.
12 And if they select five or six days out, then essentially it
13 doesn't fall under the rule.

14 **COMMISSIONER SKOP:** Fair enough. I mean, that's an
15 argument because they can voluntarily waive through that
16 process, also, if they want to set it out. And I do appreciate
17 AT&T's service guarantee plan. I mean, it's a little different
18 thing that the AT&Ts chose to do, so, I think I am satisfied on
19 that. I just wanted to vet that out. Thank you.

20 **MS. COWDERY:** Commissioner.

21 **CHAIRMAN CARTER:** Thank you.

22 Commissioner Argenziano. Did I hear a voice?

23 **MS. COWDERY:** That was me. I thought I might be able
24 to address Commissioner Skop's question regarding the basic
25 service from staff's point of view on the statutes.

1 **CHAIRMAN CARTER:** Okay.

2 **MS. COWDERY:** It is correct that 364.0451 regarding
3 pricing does have a section on basic and a section on nonbasic.
4 But, as Ms. Clark stated, we are not dealing with pricing on
5 basic or nonbasic today.

6 The statute also has specific definitions of basic
7 telecommunications services and nonbasic services, and nowhere
8 is there anything in the statute that states that if you have a
9 basic service and you combine it with the nonbasic services,
10 such as your call waiting or anything, that your basic is no
11 longer basic. It's still basic under staff's reading of the
12 statute.

13 **CHAIRMAN CARTER:** Okay. So foundationally basic is
14 basic, and whatever else you get from that, the foundation is
15 basic.

16 **MS. COWDERY:** For our purposes for the quality of
17 service, I think.

18 **CHAIRMAN CARTER:** Thank you.

19 Commissioner Argenziano.

20 **COMMISSIONER ARGENZIANO:** That was what I was leading
21 towards, so that answered that quite effectively, and that's
22 what I thought it was. Thank you.

23 **CHAIRMAN CARTER:** Thank you. Commissioners, now I
24 want to move you to --

25 **MS. CLARK:** Mr. Chair, we disagree with that.

1 **CHAIRMAN CARTER:** You do?

2 **MS. CLARK:** Yes, we do.

3 **CHAIRMAN CARTER:** Okay. That's fine.

4 **MS. CLARK:** We have said that before, and I think one
5 of the things that staff has hung their hat on is 364.08 saying
6 similar services have to be treated similarly. I think I got
7 that out right. The statute already does not -- makes a
8 distinction between basic and nonbasic. Furthermore, that
9 speaks to carriers, not what the Commission does. And I would
10 point out that that rule does not apply to our competitors, so
11 you have that sort of distinction in the market today. And the
12 statute is directed at carriers, not the Commission, and I
13 would suggest to you the Legislature clearly says your focus
14 should be on basic telecommunications service, which is not
15 bundled service.

16 **CHAIRMAN CARTER:** Commissioner Argenziano.

17 **COMMISSIONER ARGENZIANO:** So what Ms. Clark is
18 telling us is that her understanding of the statute is that
19 even if you have a basic service and then add something to that
20 basic service, the quality of service doesn't apply to the
21 basic service component of that anymore.

22 I disagree. I think it doesn't apply to what you
23 have bundled, but it still applies to the basic service. That
24 is my reading of the statute. And if Ms. Clark would like to
25 show me specifically where it says anything other, then I would

1 like to have that.

2 **MS. CLARK:** I think the statute makes the distinction
3 between basic service and nonbasic service, and when you look
4 at what your responsibilities are it speaks to the public --
5 this is in 364.014(a), and it says protect the public health,
6 safety, and welfare by ensuring basic local telecommunications
7 service is available to all customers in the state at
8 reasonable and affordable prices. And it seems to me that what
9 your direction is with regard to the basic service. And if I
10 could --

11 **COMMISSIONER ARGENZIANO:** Yes, but my point would
12 be -- Mr. Chairman.

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

14 **COMMISSIONER ARGENZIANO:** Would be then you are still
15 carrying the basic service, but you are adding to the basic
16 service. So under your argument anything you add to it is not
17 considered basic service --

18 **MS. CLARK:** But I believe the --

19 **COMMISSIONER ARGENZIANO:** -- anymore, but the basic
20 service still remains.

21 **MS. CLARK:** You can still get the basic service and
22 add ala carte; but when you bundle it, it is no longer basic
23 service.

24 **COMMISSIONER ARGENZIANO:** That is what I don't see in
25 the statute. I see that what you are saying, your argument to

1 me is that anything you add to the basic service is no
2 longer -- that is not a basic service, but the basic service
3 itself still remains.

4 So if I had a basic service line where I asked for
5 call waiting, I would expect quality of service for the basic
6 line of service to remain. And maybe the quality of call
7 waiting would change, but I don't see where it severs the basic
8 service part from quality of service just because you add
9 something.

10 **MS. CLARK:** Well, looking at 364.021 when it says
11 basic local telecommunications service means voice grade flat
12 rate residential and flat rate single-line business local
13 exchange services, which provide -- and then it lists the
14 services. When you bundle it and add services and you do it as
15 a bundle, it is no longer basic local exchange service.

16 Now, you can keep it that way if you add it by
17 vertical services.

18 **COMMISSIONER ARGENZIANO:** Mr. Chairman.

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

20 **COMMISSIONER ARGENZIANO:** Continue reading. Where in
21 that does it say you added when you bundle it, it doesn't
22 remain basic services. But I don't read that in the statute.
23 I read in the statute that for the purpose of clarifying what
24 basic service is, that statute as written says if you have this
25 without these things that's basic service. Once you add

1 something, I still don't see where it severs the basic service.
2 You have added something, so now the additions don't require
3 the same quality --

4 **MS. CLARK:** I think it does, because --

5 **COMMISSIONER ARGENZIANO:** -- as the basic service
6 did. And I am looking at --

7 **MS. CLARK:** I think it does because of the definition
8 of nonbasic service, which essentially says basic service is
9 basic service, everything else is nonbasic service. You can't
10 be in two pots at one time. And when you add and bundle those
11 features, you become nonbasic service.

12 **COMMISSIONER ARGENZIANO:** I disagree.

13 I believe, Mr. Chairman, what it is is you still have
14 basic service, but you've added to it, and you can't apply
15 anything other to the things you have added to. Because I
16 don't see additional language that says once you have taken
17 basic service and added something to it, it's no longer basic
18 service. There is still a delineation of what that basic
19 service is and what you add, but to me the service components
20 still apply to the basic service. And I don't see it, and I'm
21 trying to find the correct spot here in the statute.

22 **CHAIRMAN CARTER:** I think what staff is saying is
23 that basic service is basic service. Whatever else you do, you
24 still have the basic service. And that's what you are saying,
25 Commissioner, and that is what staff has said. In a practical

1 sense, Ms. Clark, it seems to make sense.

2 **MS. CLARK:** I don't think it does make sense in a
3 practical way for a couple of reasons, but let me defer to
4 Tracy because he wanted to make some comments on that.

5 **MR. HATCH:** In many respects, the Commission has
6 already crossed this bridge. Because when the Commission
7 authorized bundled services up front, it acknowledged and
8 essentially conceded that when you do that you have a single
9 price. And that's an important thing to note. Because if you
10 look at 364.051, that's the pricing structure for basic and
11 nonbasic.

12 For basic services, there's a specific formula that
13 says you can't increase the price more than inflation,
14 essentially. That is the short version of it for basic
15 service, and then that is a defined term up front. For a
16 nonbasic service, you can increase those prices up to
17 20 percent a year. And so in order to create that bundle, you
18 have essentially conceded that once you mix the single-line
19 residential or business service in as a bundle at a single
20 price you have crossed the Rubicon, and it becomes essentially
21 a nonbasic service, because you can't have a bundled price that
22 can go up by inflation minus one and then 20 percent on the
23 other side. It's just a single bundled price for a single
24 bundled service which ultimately ends up being nonbasic. And
25 that's the point that Ms. Clark was making earlier.

1 **CHAIRMAN CARTER:** You know, in a common sense world,
2 which is probably not where we are now, is that if that being
3 the case, then a customer would just go with basic service and
4 say forget the bundles because at that point in time I lose
5 whatever protections I had under the basic.

6 **MR. HATCH:** And certainly they can do that today.

7 **CHAIRMAN CARTER:** Right. That's what I'm saying.
8 But I'm saying that --

9 **MR. HATCH:** Those are the choices that the
10 marketplace offers to customers.

11 **CHAIRMAN CARTER:** But from a marketing standpoint --
12 no, I don't even want to go there.

13 **COMMISSIONER ARGENZIANO:** Mr. Chairman.

14 **CHAIRMAN CARTER:** Commissioner Argenziano.

15 **COMMISSIONER ARGENZIANO:** If you have -- if you look
16 at the definition of basic local telecommunications service, it
17 describes exactly what it is. It doesn't say it changes if you
18 add anything to it. The changes are when you add something to
19 it, to those additions, the additions then would not be subject
20 to what the basic local service is. I mean, you can look at it
21 both ways if you want. And, of course, if you are on the
22 companies end, you want to look at it the best way it is for
23 you; but I can't see anywhere where it says that once a basic
24 service is added to, that it itself is not treated as a basic
25 service. It still is a basic service with the quality

1 standards that are attached it, whether you add or not.

2 Now, when you add to it, and this is the third time
3 I'm going to say it, when you add to it, in my opinion --
4 because it doesn't tell me anything other. When you add to it,
5 the additions would not be subject to what the basic service is
6 subject to as far as quality, but that doesn't automatically
7 say that just because you have added to it, now the basic
8 service doesn't have the quality anymore either. I just can't
9 find that in the statute.

10 **CHAIRMAN CARTER:** Now I'm going to go to Commissioner
11 McMurrian and then Commissioner Skop.

12 Commissioner McMurrian.

13 **COMMISSIONER McMURRIAN:** Thank you.

14 I just wanted to ask Mr. Hatch to tell us what the
15 reference was again that you were talking about in pricing so
16 that we can look at it. But before I go there --

17 **MR. HATCH:** The pricing is in Section 364.051. I
18 don't have the subsection references.

19 **COMMISSIONER McMURRIAN:** And I don't know if I'm
20 making it worse or better, because I don't remember all the
21 decisions and that sort of thing, but I'm remembering some of
22 what Mr. Hatch is talking about and that the Commission had --
23 I guess when bundles started being offered, that the Commission
24 made some kind of decision about how we deal with bundles and
25 how they are treated, and some of these questions about basic

1 and nonbasic arose.

2 And I think what he's saying, and I don't remember
3 the history by any means, but I think what he's saying is at
4 that point we sort of crossed the bridge and we weren't in
5 Kansas anymore. That basic now, once it was in with the
6 nonbasic, became a total bundle of nonbasic; and so it wasn't
7 subject to the pricing statute for just the basic anymore. And
8 so that we have already sort of muddied that water very many
9 years ago.

10 **CHAIRMAN CARTER:** So, basically, Commissioner, either
11 you have basic or you have everything else.

12 **COMMISSIONER McMURRIAN:** But I think --

13 **CHAIRMAN CARTER:** Or something else. You either have
14 basic or you have something else.

15 **COMMISSIONER McMURRIAN:** The way I understand what
16 they are proposing is -- and I may mess this up, but if you are
17 saying if it says basic -- if you add in the word basic, that
18 it would apply to -- and I think staff clarified this, too, or
19 at least their understanding of what they are proposing -- that
20 it would include any kind of residential basic line plus any
21 ala carte feature would definitely be still subject to any of
22 the service quality rules.

23 So if you had basic service plus call waiting and you
24 pay the full price for call waiting, and it's somewhere around
25 \$8, I think, at least if I remember correctly, or if you had

1 basic service and caller ID, or even if you had basic service
2 and a couple of those things, as long as you were paying the
3 full ala carte that the service quality rules would still
4 apply. But if you subscribe to some bundle, that then you
5 wouldn't be subject to the service quality rules anymore
6 because of that distinction about basic.

7 **CHAIRMAN CARTER:** Because the bundling in your
8 hypothetical would be voice, data, video, the whole --

9 **COMMISSIONER McMURRIAN:** It could also be the
10 features. I'm sort of confused, too, but it could also be the
11 features all bundled together if it's bundled together and
12 provided at one price. And I think that's where he's talking
13 about the prior decision that the Commission made when we
14 started down the bundle road. And, again, I don't know how
15 long ago this was, but that we sort of crossed that bridge and
16 once something was moved, the basic part was moved into a
17 bundle and provided at one price at a discount, then that
18 statute that he's referencing makes it essentially not -- well,
19 putting all of that together, that you are essentially in
20 nonbasic territory even for the basic part that is included in
21 that bundle, if I'm understanding it correctly.

22 **MS. SALAK:** For pricing purposes -- Commissioners,
23 for pricing purposes on a practical basis, we have had -- if
24 you have a bundled package, we have treated it under .051 with
25 the nonbasic section because you have one price and all of

1 these features. So we have treated it as nonbasic. That is
2 true.

3 But this is about quality of service, and I will hand
4 it over to -- I was just telling you, I will confirm that that
5 is how we treat it for pricing, and we use the time frames
6 associated with nonbasic and the 20 percent as allowed in the
7 statute.

8 **COMMISSIONER ARGENZIANO:** Mr. Chair.

9 **CHAIRMAN CARTER:** Commissioner Argenziano.

10 **COMMISSIONER ARGENZIANO:** (Inaudible. Microphone
11 off.) -- quality, so that is a whole separate thing, and you
12 can go from statute and then go to what the Public Service
13 Commissioner has done before, you know, the statute is going to
14 trump. And I don't see how you segregate the pricing and pull
15 out the quality of service from basic service and try to make
16 it something I don't see it is. So that's great for pricing
17 purposes, but not for the purposes of quality of service.

18 **MR. HATCH:** Mr. Chairman, I would point out that the
19 statute doesn't make a distinction between pricing and quality
20 of service where it does make a distinction between basic and
21 nonbasic. And then to come back to Commissioner McMurrian's
22 question, the pricing for basic service is found in 364.051,
23 Subsection 3, and then the pricing standard for nonbasic is in
24 .051, Subsection 5.

25 **CHAIRMAN CARTER:** Let me go to Commissioner Skop and

1 then I will come back.

2 Commissioner Skop.

3 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

4 And I have been following the discussion, and I was
5 hoping that, you know, AT&T and Ms. Clark would be able to
6 distinguish from what Commissioner Argenziano's interpretation
7 of the statute was, because I share the same view upon the
8 reading of the statute. And, again, I don't attempt to muddy
9 the waters, but it is becoming murky as we proceed further.

10 But what I see here through the ILEC request
11 potentially is an attempt to transform basic service through a
12 customer election into -- I mean, a basic service into nonbasic
13 service by virtue of a customer election that, you know, is
14 going to be marketed heavily to the consumers up front. So
15 they are more than likely going to make that election.

16 But what is even more interesting and sort of on top
17 of that, if the customer did not make that election and stuck
18 with the basic service, then they pretty much know what the
19 price increase would be, I think, as AT&T mentioned, inflation.
20 But if they opt out and go nonbasic then it's priced at
21 whatever the market bears, which I think is a point that
22 Commissioner Argenziano raised. Once you get into something
23 then you may continue to see price escalation.

24 So this is kind of interesting. I mean, not to pick
25 one way or another, but it just seems to me that the aspect of

1 the basic feature and the nonbasic feature being the addition
2 of -- a nonbasic service being the addition of features are
3 separate and distinct. I don't see how they merge and become
4 blended. But I think it's an interesting, well-vetted
5 discussion we're having here, so I'm happy that we are having
6 it.

7 **MS. SALAK:** Commissioners, perhaps we could get
8 beyond the definition of basic and nonbasic. I mean, the real
9 issue is what do you want to have service quality over. What
10 do you want to have installation time on. I mean, do you want
11 it on bundles or do you just want it on stand-alone service?
12 That's the real key question, no matter what you want to call
13 it.

14 I mean, we can define it as standalone service. You
15 know, we can craft language for that, but the real imperative
16 issue is what is it you want it to apply to.

17 **MS. COWDERY:** Commissioner Carter.

18 **CHAIRMAN CARTER:** One second, before I lose my train
19 of thought. And I think from listening to what you guys have
20 said is that it applies to the basic service, correct?

21 **MS. SALAK:** Well, the company has said basic service
22 and then has defined it as a small percentage of its customers
23 that don't have a bundle.

24 **CHAIRMAN CARTER:** Okay.

25 **MR. MAILHOT:** Staff's proposed rule is a little bit

1 more inclusive to include customers who are getting bundles of
2 telecommunications service.

3 **MS. SALAK:** That's why we called it residential as
4 opposed to basic so we wouldn't argue, you know, that.

5 **CHAIRMAN CARTER:** Did you complete your thought?

6 **MS. COWDERY:** I just had a little thing to tag onto
7 Ms. Salak's comments from a legal perspective. Of course, the
8 Commission has wide discretion in interpreting its statutes,
9 and I think what staff is trying to do is put forth a
10 recommendation where we are looking at those
11 364.01 considerations and protecting basic service along with,
12 you know, telecommunications services, and we thought that this
13 was a good balance.

14 **MS. CLARK:** Mr. Chairman, I just want to make one
15 other point that goes to what Commissioner Skop has mentioned.
16 There is an obligation to provide customers with information on
17 their lowest cost of service. So that is part of that
18 conversation, and I would suggest to you that it is not --
19 there is no incentive for them to actually attempt to treat
20 customers differently, but in terms of measuring meeting the
21 objectives of the rule, we think it should focus on those
22 customers that the statute suggests you focus on, basic
23 telecommunications services.

24 **CHAIRMAN CARTER:** Okay. Ms. Perry.

25 **MS. PERRY:** I think we're talking semantics here.

1 There has always been the definition of basic service, 34
2 years, there has been -- we started calling them custom-calling
3 features, call waiting, call forwarding, three-way calling.
4 They have been around for a long time and the customers have
5 been buying them separately for a very long time. Basic
6 service has always been basic service and then you add the rest
7 on, but basic service has always been basic service.

8 And I don't remember any conversation in the
9 Legislature that changed that thinking that basic service is
10 covered. Whether it's three services they used to pay for
11 separately, or now they are bundled together and they can add
12 two more services to it, there was never any conversation. If
13 you go back to the Legislature and listen to some of the tapes
14 of the committees, you will never hear this conversation. It
15 was never brought up during the legislative process.

16 I mean, basic service is basic service, and then if
17 you bundle on it, you're saving a little bit of money and
18 getting more services maybe, but it doesn't change that you
19 still have basic service. You have to have basic service in
20 order to bundle on top of it these other services that are just
21 central office functions that are already paid for.

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

23 Commissioner Argenziano and then Commissioner Skop.

24 **COMMISSIONER SKOP:** Let me just put it a different
25 way. You can't have caller ID and caller waiting without basic

1 service. Okay. So they're separate. And if the rule applies
2 to basic service only, there will be more people bundling who
3 will never -- that rule will never apply hardly to anybody. So
4 it's ridiculous. It can't be severed. Basic service is still
5 there, even if you add on other services and quality of service
6 should still apply.

7 **CHAIRMAN CARTER:** Commissioner Skop.

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

9 I tend to concur. And the reason why is this, I
10 think that the staff approach is more inclusive to anticipate
11 that consumers would be likely to add features, whereas the
12 ILEC position goes beyond that and says that if you add bundled
13 features then you are excluded from being complied with the
14 quality of service rule for installation time.

15 It would seem to me that a middle of the ground
16 approach at a minimum would be that if I order a phone under
17 basic local telephone service that that rule should apply and
18 that phone should be installed in five days. And if the
19 features lag that by a couple of days to process the work
20 order, then that's a nonbasic service that wouldn't be covered
21 by the rule. So, again, at least the middle ground approach
22 would be that the rule would still apply to the basic component
23 irrespective of the attempt to shift semantics.

24 But, again, now I'm having a better appreciation of
25 the different approaches. Staff is on one end of the spectrum,

1 the ILECs are kind of on the other, but at least if we bring it
2 down or distill it to the basic components, you have a basic
3 component and a nonbasic component, or nonbasic service, and
4 the ILECs are trying to merge the addition of features into the
5 whole nonbasic category and staff is trying to include it.

6 And so it seems to me that -- I think in the interest
7 of consumers, the middle-ground approach would be just to
8 ensure that when you sign up for a telephone it is installed by
9 five days. And if they add features, bundled features, then
10 maybe the features can take ten, fifteen days, whatever is
11 competitive. But I just thought I would add that to the
12 discussion, and I'm done talking on that issue.

13 **CHAIRMAN CARTER:** Thank you. Let's do this,
14 Commissioners. Let's see if we can do any better with
15 25-4.070, customer trouble reports.

16 **COMMISSIONER EDGAR:** Mr. Chairman, although I am
17 getting hungry again --

18 **CHAIRMAN CARTER:** Commissioner Edgar.

19 **COMMISSIONER EDGAR:** Thank you.

20 But before we do that, because I think I am the one
21 that asked us to walk through these few little -- I would like
22 to come back briefly to the question or the point that
23 Ms. Salak raised, which I think I was trying to get at a little
24 while ago. And, as usual, she put much more clearly and much
25 more succinctly, which is, you know, with the issues before us,

1 what direction do we want to give to our staff, and how do we
2 want to address them today, and on a go-forward basis.

3 And I had tried to kind of carve out, for purposes of
4 this discussion, the service quality rules as discussed by the
5 parties and our staff, and I think that will still be helpful
6 if we can touch on the next two. But that question of what do
7 we think the regulations should or should not require on
8 service quality, and give that direction to our staff as I
9 think what I would like to see us try to get to today. So I
10 thank Ms. Salak for kind of bringing us back on that point, and
11 I'd like to try to keep that in mind as we walk through -- as
12 the staff begins to walk us through the next two.

13 **CHAIRMAN CARTER:** Again, Commissioner, I think that
14 we kind of beat the dead horse to sleep, and we came to an
15 agreement that basic service was basic service, unless I missed
16 out on something.

17 Commissioner Argenziano.

18 **COMMISSIONER ARGENZIANO:** I can just tell you how I
19 feel about it. That is what I'm trying to get to is what I
20 would like to see, and that's part of it, because I can't
21 separate -- I know they have their argument and they don't like
22 my opinion, but I can't see it any other way.

23 You can't have the other things, the bells and
24 whistles without having basic service, and I don't see a
25 separation of the basic service quality. And, of course, more

1 people are moving towards bundles, so to me the rule would be
2 ridiculous if it wouldn't apply to anybody.

3 **CHAIRMAN CARTER:** Commissioner Skop.

4 **COMMISSIONER SKOP:** And on that point, and I
5 appreciate Commissioner Edgar's leadership on trying to keep us
6 on point on deciding this particular issue. Would it be
7 correct to understand -- I mean, at least from what I'm hearing
8 at the bench that at least the consensus on this particular
9 rule would be adoption of the staff recommendation as opposed
10 to the ILEC amendment?

11 **CHAIRMAN CARTER:** Commissioners.

12 **COMMISSIONER EDGAR:** And as always, I appreciate a
13 direct question, and I will try -- I mean, I really do. I mean
14 that. I always do, because -- don't make me guess. But before
15 I can respond, just for me, I would like to have a little more
16 discussion about the next two. Because although we do need to
17 address them individually, to me they are, in my mind anyway, a
18 little bit interrelated.

19 **CHAIRMAN CARTER:** Okay.

20 **MS. MILLER:** Commissioners, if I could just make one
21 point. I heard the word adoption of the rules, but, you know,
22 we are at the proposed stage. So the rules, if you vote for
23 them, would be proposed then there is the 21 days for comment
24 and/or a request for a hearing. So I had heard someone else
25 refer to this as an end point, so I just want to bring it back

1 to we are at the proposed stage.

2 **CHAIRMAN CARTER:** Thank you, Cindy. Proposed.

3 We talked about the proposal on 25-4.066,
4 availability of service. Let's move and see if we can on
5 Number 25-4.070, customer trouble reports.

6 **MR. TWOMEY:** Mr. Chairman.

7 **CHAIRMAN CARTER:** Mr. Twomey.

8 **MR. TWOMEY:** May I interrupt and make an observation
9 and perhaps a request?

10 **CHAIRMAN CARTER:** Which one are you on now, so we
11 will all be on the same page?

12 **MR. TWOMEY:** Well, of course, it's on the one that
13 you are on. My comments are going to cover this rule and it
14 would have covered the one before and the one after.

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

16 **MR. TWOMEY:** And I want to speak just briefly, and I
17 hesitate to interrupt, to suggest a framework at least from the
18 customers' perspective on how to look at what you want to do
19 perhaps. And I want to start by saying that as Ms. Cowdery
20 said initially, you had a lot of rules that came in proposed by
21 the joint petitioners and some of them got weeded out and
22 others everybody agreed to, and we are down to some of them
23 now, and the consumers don't object to all of them on this
24 page. The ones we're most interested in, I think, would be, as
25 Mr. Beck generally described, where there are quantifiable

1 numerical reductions in the quality of service standards. I
2 mean, there are some that are there.

3 You have in some cases a doubling and a tripling in
4 the amount of time, whether it's more ringy-dingies or your
5 phone doesn't get repaired as fast, and so forth. Your staff
6 has said in the last page that Mr. Beck read to you in the
7 beginning that that is likely to -- well, somebody took it now
8 -- it's likely to result in more aggravation. That stands to
9 reason. You know, if you have got to listen to three times
10 more rings, that's not likely to produce more aggravation,
11 that's going to produce more aggravation. If your phone
12 service isn't repaired as fast, it's going to aggravate you.
13 If you have more dropped calls, that's going to be aggravating
14 and inconvenient.

15 So, as a larger starting point, though, I think where
16 Commissioner Argenziano was going, if I heard her correctly,
17 and where I think all the consumer groups would agree is that
18 in huge portions of this state there are not quantifiable
19 and -- quantifiable, objective, comparative, competitive phone
20 service. In terms of the things you heard Mr. Beck say them
21 three meetings ago, and the witness for the competitive folks
22 in terms of contract, price, quality of service, and things of
23 that like, they are not comparable service to the landline
24 service that you regulate.

25 And if there is not in huge portions of this state,

1 as Commissioner Argenziano said, true competition, then there
2 is not going to be competition that could control the market
3 for both price and quality of service. And that should be an
4 important factor that you all consider when you decide whether
5 to enact the changes suggested by staff, and the more
6 comprehensive changes suggested by the joint petitioners.

7 Now, what do people say if the Legislature in
8 regulatory environments and that kind of stuff when they want
9 to come in and take a piece of the action of something that
10 someone else is doing or, as in this case I would suggest to
11 you, they want to do less. They trot out that old inane most
12 trite phrase of establishing a level playing field. And who's
13 going to be -- who's going to come out and publicly oppose a
14 level playing field? You might as well oppose apple pie, the
15 flag, and motherhood.

16 But in this case, the companies, the ILECs, the joint
17 petitioners mean degradation of the quality of service
18 standards that are the status quo now. And they don't deny
19 that because they can't deny it because if you look at the
20 numbers, when you go from 24 hours to 48 hours, when you go
21 from 30 seconds to 90 seconds, those are objective standards.
22 And so what we end up with is if you adopt the changes
23 suggested by staff on these ones you are going through now, Mr.
24 Chairman, at the request of Commissioner Edgar, what happens is
25 you invariably lead to less protections than what we have under

1 the status quo now and head in the direction toward the lousy
2 quality of service that Commissioner Skop suggested he had with
3 whoever that was. The hour on the phone and all of that kind
4 of stuff.

5 And the consumers have been telling you collectively
6 that's a direction we don't want to go in. So wherever there's
7 a numeric degradation in the existing rules by the proposal, we
8 are telling you as a group we don't want to see those passed.
9 And to go to an answer or comment I think that Commissioner
10 McMurrian made, I don't know, six hours ago, she said there's
11 some -- there may be some question about who wants this level
12 of quality of service as represented by the status quo. And
13 the answer, or an answer is simple. Public Counsel, who is
14 statutorily charged with representing all the consumers in this
15 state, has told you no changes in those numeric quality of
16 service. The Attorney General of the State of Florida through
17 Ms. Bradley has said no changes in those numeric standards.
18 I'm telling you on behalf of AARP and its many members, no
19 changes. We don't want to see that. It is a degradation from
20 the status quo.

21 So I would suggest to you respectfully that in your
22 consideration of the rest of these rules and your proposals,
23 you decide just on these. If it's a degradation numerically, I
24 would ask you, all of us would ask you, don't vote for it.

25 That's it. Thank you.

1 **CHAIRMAN CARTER:** Thank you, Mr. Twomey. And believe
2 it or not, I understood everything you said. Particularly the
3 ringy-dingy part.

4 Commissioners, let's make some progress here. I
5 mean, we have been at this thing, I don't know, about six
6 hours, but we have certainly been at it -- it seems like two
7 days. But let's move on to 25-4.070, and see if we can beat a
8 dead horse to sleep on that one, and then we will move to
9 25-4.073.

10 **MS. CLARK:** Mr. Chairman.

11 **CHAIRMAN CARTER:** One second. Ms. Clark.

12 **MS. CLARK:** I don't want to interrupt your train of
13 thought and the need to go through the rules, but I do feel I
14 have to respond to the fact that they suggest that there is not
15 adequate competition out there, and I would point you to your
16 own staff's investigation and report. At least one CLEC
17 operates in 256 of the 277 exchanges in Florida. And the
18 report we attached to our position from NERA, 81 percent of
19 homes in Florida have access to digital cable telephone
20 service. And also in that report there is an indication that
21 as of April 2007, cable as an industry is only a little more
22 than halfway finished with its rollout.

23 And then if you look at a chart also in the NERA
24 report, you see where voice service is being provided by the
25 cable industry. So to suggest there isn't adequate competition

1 out there, I don't think is borne out by what you have attached
2 to our petition and also in the staff's report.

3 **COMMISSIONER ARGENZIANO:** Mr. Chair.

4 **CHAIRMAN CARTER:** Commissioner Argenziano.

5 **COMMISSIONER ARGENZIANO:** I'd like to repeat this
6 again, because I don't think Ms. Clark has heard or doesn't
7 agree. And that's fine, but I'm going to repeat it again.
8 Because I know that while we have increased competition in the
9 metropolitan areas, the concern here is that there is still
10 lacking competition in many other areas. And I don't think you
11 are grasping that.

12 **MS. CLARK:** Well --

13 **COMMISSIONER ARGENZIANO:** You just want to talk about
14 maybe the Miamis and the big areas, and I'm telling you there
15 are other people besides those people living in those
16 metropolitan areas who may be adversely impacted negatively by
17 changing a rule and changing the quality of service. So while
18 everyone can show a graph and, yes, of course, there has been
19 more competition, there's more competition in eyeglass
20 suppliers and everything else. And that's great, that's what
21 we want.

22 But I think the emphasis of what you are not hearing
23 from me, at least, I'm not going to speak for anybody else, is
24 that there are a whole bunch of other people who don't have
25 that competition. And for their sake, we are charged in

1 looking at all of them, not just those areas that have the
2 available -- and then, again, in those charts and those reports
3 it does not delineate whether they are tied into contracts and
4 all of those other things that really represent true
5 competition.

6 So in having to look at that as a person with a
7 conscience and sitting here doing a job that I held my hand up,
8 as you did this morning -- excuse me, the right hand, that's
9 necessary. So while I understand in trying to hear what you
10 say, I hope you are hearing what I'm saying. There is still
11 not a lot of competition in a lot of other areas.

12 **MS. CLARK:** I do. But I would -- also at various
13 points you did hear from the rural companies, and I think
14 Commissioner McMurrian touched on it. The idea that, yes, we
15 might not have perfect competition everywhere, but the question
16 becomes is it at this point appropriate to recognize that
17 asymmetrical regulation should not be continued. I do
18 understand your point.

19 **COMMISSIONER ARGENZIANO:** And, Mr. Chair, I
20 understand that, too. But at this point, it becomes very much
21 apparent to me as a Public Service Commissioner that quality of
22 service is something I definitely have to look at because --
23 and I'm not saying it's not a perfect situation right now, but
24 there are still a whole bunch of people who would be affected.
25 So in the name of competition alone, yes, there is increased

1 competition, but the implications of what we do on these rules
2 apply to those people who don't have the available competition,
3 and that's my concern.

4 **CHAIRMAN CARTER:** Okay. Staff, would you introduce
5 us to 25-4.070.

6 **MR. MAILHOT:** Yes, that's at the top of Page 2 of
7 your three-page handout, and it is titled customer trouble
8 reports. And the primary purpose of the rule has to do with
9 repairs.

10 Staff is proposing about three changes, three major
11 changes to this rule. The first change is to combine what's
12 known as out-of-service and service-affecting troubles. It
13 combines those two into one measure. Currently there's two
14 separate measures for that.

15 The next major change is to aggregate all the
16 exchanges that are larger than 50,000 access lines into one
17 number to be reported on a quarterly basis as opposed to a
18 monthly basis. Mechanically, what that means is that when they
19 report to us to meet this rule requirement, they report one
20 number for the whole quarter for all the exchanges as opposed
21 to currently there might be 200 separate numbers. You know, if
22 you have 100 exchanges and one for each month you could have
23 potentially 300 measures that you would have to meet. And what
24 this rule does now is they will be able to simply add all of
25 those together into one number to meet the rule. So

1 essentially it makes it easier to meet the rule.

2 The third major change is we are combining the amount
3 of time for repair. Currently your out-of-service repair is 24
4 hours, which means if you get -- you know, if you pick up and
5 you get no phone service, they have to repair it within 24
6 hours. And service-affecting is 72 hours, which means like if
7 you have like static on the line or something like that, they
8 have to get it fixed within 72 hours. We are combining those
9 two into one number of 48 hours.

10 In trying to review the company's position, I think
11 we have identified three primary differences between our
12 proposed rule and what they would like to do. The first one we
13 have been through already, which is the basic. The issue about
14 who this rule applies to in terms of a customer just getting
15 basic service versus one who gets a bundled package, you know,
16 of telecommunications service. You know, we think it should
17 apply to basically everybody who gets residential service. And
18 the company is proposing to limit it simply to those customers
19 who get just basic service.

20 I think another major difference between their
21 proposal and our proposal is that we would like the
22 out-of-service or the service-affecting conditions to be
23 corrected 95 percent of the time within 48 hours, and they are
24 proposing 80 percent of the time. So there is a pretty good
25 difference there, and, you know, actually what it takes to meet

1 the rule.

2 And I think the third issue is more of, perhaps, a
3 legal issue. We're recommending changing this to make it clear
4 that this is a service standard, and the company or the
5 petitioner is proposing more that it be recognized as a service
6 objective. And that's essentially the differences.

7 **CHAIRMAN CARTER:** Commissioner Argenziano.

8 **COMMISSIONER ARGENZIANO:** Yes. Do you have any
9 history on why it was originally at 24 hours for that service?

10 **MR. MAILHOT:** Not necessarily, but I believe it has
11 been that way for quite a few years. We think it has been that
12 way since about 1968, the 24-hour requirement.

13 **COMMISSIONER ARGENZIANO:** It would be interesting to
14 know what brought about the 24 hours. I think that would be
15 very telling one way or the other. I don't know if anybody
16 else knows.

17 **CHAIRMAN CARTER:** Let's hear from the companies.

18 **MR. HATCH:** I'm probably not old enough to remember
19 when the rule was, but I can tell you it has been in place
20 since I started this business in 1984. It basically is an
21 arbitrary number that comes out of a regulatory model that's
22 premised on a regulatory body deciding that as a monopoly it
23 has to opt as a substitute for competition, and when it does so
24 it has to decide what the universe should look like sort of
25 with a clean slate. It's purely arbitrary in terms of how you

1 do that. And the question is now in a new world, what should
2 it be; not what was it and why should it be changed.

3 **MR. HILL:** Mr. Chairman, I think that's speculation.
4 You know, the truth is it came about in '68, and that might be
5 why, but we had an awful lot of cost studies when I came to the
6 Commission, and I think that's speculation.

7 **CHAIRMAN CARTER:** That was Chuck Hill, for the
8 Commission. Thank you, Mr. Hill, on that.

9 **COMMISSIONER ARGENZIANO:** Well, I was just wondering
10 that there had to be some discussion on why the 24 hours came
11 about, and maybe I'm wrong, because there's probably a lot more
12 people using services now. But it seems technology has changed
13 so much that maybe it's -- I don't know if it's a technological
14 issue now other than just rolling trucks in and out that have
15 anything to do with that extended period of time.

16 **CHAIRMAN CARTER:** Ms. Clark, do you want to address
17 that?

18 **COMMISSIONER ARGENZIANO:** Or would it be easier
19 actually to get things quicker today because of technology to
20 switch something. I don't know. I guess it depends on each
21 individual instance.

22 **MR. GREER:** Commissioners, our effort, as I said
23 before, was to try to better streamline our operations in
24 dispatch in that we didn't look at it -- we didn't track them
25 out-of-service, service-affecting, because to be quite honest,

1 in this day and age, service-affecting is just as important for
2 some customers, because if you have static on your line you
3 can't use your broadband service.

4 So, I mean, we tried to merge them into a certain
5 time frame into one number as far as out-of-service,
6 service-affecting. I think back in the regulated days of rate
7 base rate of return type thing you had a cost, whatever it was;
8 if you needed X amount of dollars to do that, then you could
9 come to the Commission and get that amount of dollars, once you
10 fight with Charlie and them.

11 But in today's world of price regulation, you know,
12 they have a fixed amount of revenue, or a fixed amount of
13 dollars that they have to budget, and it's really an effort to
14 try to streamline their operations versus what it used to be.

15 **CHAIRMAN CARTER:** Okay. Mr. Beck.

16 **MR. BECK:** May I address it briefly? This is
17 slightly broader than Commissioner Argenziano asked, but if you
18 were to grant me one wish and say you could change one thing in
19 that staff recommendation and only one what would it be, it
20 would be this. Because when you are out of service, you know,
21 you don't have 911. It's a safety concern. It's beyond just
22 being aggravating or inconvenient to a customer. You're now
23 talking about very important safety things. If we could change
24 one thing, it would be that 48 hours for out-of-service
25 repairs, bring it back to 24.

1 **CHAIRMAN CARTER:** You're recognized, Commissioner.

2 **COMMISSIONER ARGENZIANO:** And for staff, the proposal
3 by the companies is that that wouldn't apply to the bundled
4 services, so that rule wouldn't apply to anybody with bundled
5 services, and that means even within that 72 hours, then, or 24
6 hours, they still wouldn't -- okay, I've got it. Thank you.

7 **CHAIRMAN CARTER:** Commissioner Skop.

8 **COMMISSIONER SKOP:** Thank you, Mr. Chair. That's the
9 exact same question I was going to pose to AT&T or Ms. Clark.
10 So I would like to hear that, because, again, semantics and
11 definitions is important. And if one were to order basic local
12 telephone service and then add bundled features, would it be
13 correct that this rule would not apply to that customer under
14 the ILEC suggested change to the rule?

15 **MR. GREER:** Correct.

16 **CHAIRMAN CARTER:** Commissioner Argenziano.

17 **COMMISSIONER ARGENZIANO:** Well, just to comment, I
18 probably would never be in agreement with that even at the
19 72 hours at this point unless there was some kind of voluntary
20 customer -- you know, we volunteer to do this and you can
21 reduce my bill for the voluntary reduction, I guess.

22 I just can't see reducing the off time. That, to me,
23 I think, is the most critical point, as I think Mr. Beck felt
24 also. That extending -- I know what staff tried to do, and I
25 appreciate that, the compromise in there, because of the

1 72 hours. And I understand that, too, but I think when you are
2 talking about people, especially when you get down to basic
3 services, that phone line may be a very lifesaving thing. And
4 I know that the companies may be strapped for, you know,
5 getting repairs done in a timely manner; but I think out of
6 anything there, an outage is something that needs to be
7 corrected quickly.

8 I wouldn't be likely to say you can have more time to
9 keep the outage. Alarm systems, people on health problems, and
10 so on are actually stuck disabled in their homes. I think that
11 is a top priority, and I would be very reluctant to move it to
12 72 hours is my feeling.

13 **CHAIRMAN CARTER:** Thank you. Commissioners.

14 Commissioner Skop.

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

16 Just as a follow-on to that, notwithstanding what the
17 restoration time and hours should or should not be, it would
18 appear that under the ILEC proposed change that the vast
19 majority of those lines would be exempt from compliance with
20 that rule anyway by virtue of the nomenclature that it would
21 fall under nonbasic service by virtue of bundling, so that's an
22 equal concern.

23 **MR. GREER:** Commissioner, as far as AT&T goes, AT&T
24 under our definition of basic still has about 1.2 million
25 access lines, residential access lines under that definition.

1 **CHAIRMAN CARTER:** Ms. Khazraee, you walked up to the
2 podium, so I gather you have got something to offer. You're
3 recognized.

4 **MS. KHAZRAEE:** Just one thing. Thank you, Chairman.
5 Sandy Khazraee with Embarg.

6 I just wanted to say, and I think Stan said it
7 earlier, but I just want to reiterate again, one of the big
8 reasons that the companies are asking for this timing change
9 and to combine out-of-service and non-out-of-service is because
10 we are really trying to make efficient our dispatch of our
11 technicians. And that only affects our costs, but it affects
12 the amount of gas we use, the amount of pollution we put into
13 the air. I mean, that's a really big issue these days. And
14 when you have got a company with the number of technicians we
15 do, and we are sending them back and forth across the county
16 because we have got to get all the out-of-services done first
17 before we come back and do the service-affectings, it does make
18 a big difference. So I just wanted to make sure we said that
19 again.

20 **CHAIRMAN CARTER:** Commissioner Argenziano.

21 **COMMISSIONER ARGENZIANO:** And I understand that, and
22 I really do appreciate that part of that, but aren't a lot of
23 repairs done now -- can't many of them be done without going to
24 the home? Aren't many of them now -- versus 20 years ago,
25 there are more that are repaired now from wherever than coming

1 out?

2 And I do understand the fact of getting trucks out
3 there and the cost involved in that, but you do understand an
4 outage is something that in some cases can be extremely
5 critical. And I'm not too sure politically that you would even
6 find a lot of support in the political realm, you know, to try
7 to keep an outage on longer. Not try to keep it on, but allow
8 it to go on for a longer period of time.

9 **MS. KHAZRAEE:** I do understand. It has been a few
10 years since I have been an outside plant engineer. I would say
11 generally, for different reasons, a lot of our outages we still
12 have to dispatch on. And, you know, yes, you're right, the
13 technology is changing, but it also still makes us have to
14 drive out. We have got a lot of the electronics now closer to
15 the home, so we have got to send people out to those remote
16 devices. So there's still a lot of driving.

17 Embarq has an essential line service that we offer to
18 people who have critical medical needs, and those people under
19 that essential line service are eligible to have their service
20 restored, I think it's within four hours, if they are signed up
21 for essential line service. So we do have something for people
22 who actually have critical medical needs.

23 **COMMISSIONER ARGENZIANO:** And I think that's
24 commendable and wonderful. I just don't know percentage-wise
25 how many times you are out -- have to actually go out, and I

1 think it's actually part of your business. You know, if you
2 have to go out and repair something, you've got to go out and
3 do it, that's the name of the business. But I just think -- it
4 would be interesting to know how many times versus 20 years ago
5 you have to go out now to a home with the technology changing
6 so much.

7 As a matter of fact, many times -- not many times,
8 but several times when I have called and had a problem on the
9 phone, sometimes it was -- actually almost all the times it was
10 resolved without coming out. So I didn't know how much that
11 played into --

12 **MS. KHAZRAEE:** Although they didn't come to your
13 home, they might still have had to be dispatched to the
14 subscriber loop carrier device that was sitting somewhere out
15 from where the techs are.

16 **COMMISSIONER ARGENZIANO:** But isn't that what you
17 are, the phone company? Isn't that part of your business?

18 **MS. KHAZRAEE:** It is. But I'm just saying that's why
19 we want the efficiencies to be able to do out-of-service and
20 not out-of-service in one trip to one general geographic area.

21 **COMMISSIONER ARGENZIANO:** And I appreciate that.

22 **MR. GREER:** And, Commissioner, if I could point
23 out --

24 **CHAIRMAN CARTER:** Ever so briefly.

25 **MR. GREER:** I will try to make it brief.

1 You indicated that there are sometimes that people
2 are out of service, and I expect there are folks that don't
3 have alternatives to them, such as a cell phone. I expect
4 there is also a lot that do if their service is out of service
5 over 24, and that's the only point I wanted to make.

6 But as far as the dispatch goes, we still dispatch a
7 lot. It depends on the trouble that you have got. If it is in
8 the cable or something like that, you have got to dispatch.

9 **CHAIRMAN CARTER:** Ms. Bradley.

10 **MS. BRADLEY:** Thank you, sir.

11 I just wanted to say that we support Public Counsel's
12 position on this. And, you know, if they can put a movie on my
13 phone these days, they should able to fix a phone. But if it
14 would make them feel any better, that 24 hours without a phone,
15 it seems like 48 or 72. Being without a phone is tough. You
16 use it all the time. And I think 24 hours is certainly long
17 enough for them to get it fixed.

18 **CHAIRMAN CARTER:** Thank you.

19 Commissioners, let me be the heavy. And, once again,
20 we have beat a dead horse to sleep.

21 Let's go down to 25-4.073 regarding answer time.
22 Staff, would you please introduce this issue. And what I would
23 like to do, Commissioners, after we do that, we'll go back to
24 these three issues. And thank you, Commissioner Edgar, for
25 pointing us in those directions, because those are the main

1 issues as identified by Public Counsel, the Attorney General's
2 Office, AARP, the Communication Workers of America, and the
3 consumers. So let's do this.

4 Staff, you're recognized for 25-4.073.

5 **MR. MAILHOT:** Okay. This was the rule on answering
6 time, which is essentially the amount of time it takes the
7 company to respond when you call to one of their offices.

8 We have made two recommended primary changes here.
9 One is to combine the answer time for the repair office with
10 the answer time for the business office. Currently they are
11 measured separately. So we are recommending -- I mean, the
12 business office is where you might call if you have something
13 other than repair. You know, if you have a billing question or
14 something like that. So we're recommending that you combine
15 these two measures.

16 And the other, probably the biggest change in this is
17 in the answer time itself. We're increasing some of the times
18 by a little bit, but the biggest increase really is to -- from
19 the time you push the button to say you want to talk to an
20 operator or talk to a live attendant, we are increasing that
21 time from 55 seconds up to 90 seconds. And so it's, you know,
22 a pretty good sized increase in that length of response time.

23 **CHAIRMAN CARTER:** Go ahead, as you have done before,
24 and just kind of give us the company's position, as you did
25 before, and we can go from there as we deliberate.

1 **MR. MAILHOT:** Okay. As best I can to summarize the
2 difference between the staff's proposal and the company's
3 latest proposal here is that, once again, the company wishes to
4 limit this rule so it applies to only those customers who
5 receive basic service. And, in addition, the method of
6 measuring the actual answer time itself would be significantly
7 different.

8 We're saying that on 95 percent of the calls that
9 they have to answer with a live attendant within 90 seconds.
10 What they're suggesting is that they be able to calculate an
11 average answer time, an average speed of answer of 120 seconds.
12 Which it's a different way of measuring it as opposed to
13 measuring how long it takes each customer to answer. It takes
14 all the customers and produces an average.

15 But within that average they also want to include the
16 idea that if your problem is taken care of without talking to a
17 live attendant, that that phone call counts as a one second in
18 their average speed of answer. So if they can get the problem
19 taken care of by you simply talking to the voice response unit,
20 that basically that counts as only a one-second call.

21 Does that sort of make sense? Is that clear?

22 **CHAIRMAN CARTER:** Commissioner Argenziano.

23 **COMMISSIONER ARGENZIANO:** You're saying that if I
24 pick up the phone to call and they have an automation that
25 corrects the problem, it should only count as one second.

1 **MR. MAILHOT:** Right.

2 **COMMISSIONER ARGENZIANO:** Well, I think that's pretty
3 good if they have an automation that corrects the problem.

4 **MR. MAILHOT:** Well, I mean, if you got your question
5 answered. Say you are just trying to find out, well, what is
6 my latest phone bill or something, and you punch in your number
7 and it tells you it's 49.95, and you hang up. That counts as a
8 one second call and it gets averaged into the real live calls,
9 you know, to bring their -- to make it easier to meet the
10 120-second average.

11 **COMMISSIONER ARGENZIANO:** I've got you.

12 **CHAIRMAN CARTER:** Commissioner McMurrian.

13 **COMMISSIONER McMURRIAN:** I guess I'll just say it
14 bluntly, what's wrong with averaging in a one second call if a
15 customer is happy?

16 **MR. MAILHOT:** Well, there's nothing wrong with that
17 except that it may take a lot more than one second, and what
18 we're trying to measure is the time it takes not to get your
19 problem resolved, but the time it takes to get to a live
20 operator, primarily.

21 **COMMISSIONER McMURRIAN:** Okay. I had a lot of
22 confusion when I was reading through this in the rule language
23 and in the staff rec about exactly what we were counting from,
24 and I think you have tried to lay it out. I guess I have to
25 confess I'm still a little confused.

1 If a customer calls the help number, does the time we
2 start counting the seconds that we are talking about here start
3 when the answer -- I mean, when the call is answered by
4 automation or by a live person? I mean, does it start at that
5 point? You finish dialing the phone number, and someone is on
6 the line whether it's a robot or a person. Is that when the 90
7 seconds starts?

8 **MR. MAILHOT:** No. There are three different
9 measures, three different timing intervals in this rule. The
10 first one is how long it takes to respond whatsoever, which is,
11 you know, the phone stops ringing and you either get a live
12 operator or you get the answering machine.

13 **COMMISSIONER McMURRIAN:** And that's the part about
14 the IVRU, right?

15 **MR. MAILHOT:** Yes. I believe that we're changing
16 that or increasing that time period from 15 seconds to
17 30 seconds.

18 **COMMISSIONER McMURRIAN:** Okay.

19 **MR. MAILHOT:** So within 30 seconds a machine has to
20 answer.

21 **COMMISSIONER McMURRIAN:** And then --

22 **MR. MAILHOT:** Then once you get onto the machine, you
23 know, and it starts giving you a menu, you know, Choice 1, 2,
24 3, and 4, or whatever, and, you know, you go through the menu a
25 little bit. You have -- okay, within 60 seconds of the time

1 that you get onto the system, you have to have a choice that
2 says, you know, push the button if you want to talk to a live
3 operator. I mean, they can run you through nine other choices
4 and the tenth one might be a live operator, but they have to
5 get you there within 60 seconds. Okay.

6 Then once you have pushed that button, they then
7 have -- our proposal would be to increase -- the current rule
8 says within 55 seconds you have to get to a live operator. Our
9 proposal is that at that point they have 90 seconds to get you
10 to a live operator.

11 **COMMISSIONER McMURRIAN:** So you would have 90 seconds
12 of our call is very important to you, or Musac, or whatever,
13 that is the actual --

14 **CHAIRMAN CARTER:** This call is being recorded.

15 **MR. MAILHOT:** Right.

16 **COMMISSIONER McMURRIAN:** Okay. I think I understand
17 that now. But the one second answer time, the one second that
18 would be averaged in under what they are proposing under this
19 average speed of answer, the reason you don't agree with that
20 is because it -- are you saying it would skew the average too
21 much, that you don't think it's fair to count that as one
22 second?

23 **MR. MAILHOT:** That's correct.

24 **COMMISSIONER McMURRIAN:** But what would it be
25 counted -- what would be the comparable count that it would be

1 under your system? I mean, would it be --

2 **MR. MAILHOT:** Under the current system, our rule?

3 **COMMISSIONER McMURRIAN:** Yes.

4 **MR. MAILHOT:** I mean, the current rule?

5 **COMMISSIONER McMURRIAN:** Well, I guess really under
6 your proposal. About how long would it -- I guess it would
7 vary. But, again, I keep kind of going back to, and this is
8 what I was inarticulate about earlier, and I realize Mr. Twomey
9 when he said, you know, that the consumer representatives were
10 here to explain to me that they didn't want any changes in
11 this. And I guess about what I'm saying is I do think that the
12 customer, any customer if you ask them if they wanted any
13 degradation of service, they all would say no. And I think
14 that that is what I'm hearing today from them.

15 The point I'm trying to make is, I'm not sure if 90
16 seconds versus 30 seconds is something that is a priority of
17 the customer compared to how long it takes them to get their
18 problem resolved. In other words, once they get the person on
19 the other end of the phone after the 90 seconds or 30 seconds,
20 I think, at least in my world, I care about how long it takes
21 me to get it resolved. How many times I have to explain my
22 problem. Does it take two or three more calls back, that sort
23 of thing.

24 And so it seems to me that, you know, some give with
25 respect to the number of seconds of hold and things like that

1 is probably helpful, especially probably to some of the smaller
2 companies about how many people they need on the other end of
3 the telephone and the cost of that, that some give there is
4 appropriate. And I know that you all have done that, too, but
5 I guess this one second thing I don't really understand,
6 because, again, to me counting a happy customer as a one second
7 is just not really that problematic for me. But I understand
8 it skews the average in a sense.

9 **MR. MAILHOT:** Well, it really does. I mean, calling
10 it one second, I mean, it might have taken the person five
11 minutes to get through the menu, but we are going to treat this
12 as a one-second call is what --

13 **COMMISSIONER McMURRIAN:** Okay. And I guess that's
14 what I was asking you about before. So you're not saying that
15 it would be one second comparable to about 30 or 60, you're
16 saying it could be as much as five minutes before they get
17 their problem resolved and it would still count as one second.

18 **MR. MAILHOT:** Correct. I mean, we don't know how
19 long it would take. I mean, it could take any amount of time.

20 **COMMISSIONER McMURRIAN:** Okay. I think I understand
21 what you're saying now.

22 **MR. MAILHOT:** But the proposal is that it be averaged
23 in there as if it only took one second to complete the call.

24 **COMMISSIONER McMURRIAN:** Okay. I think I understand
25 you now.

1 Thank you, Chairman.

2 **CHAIRMAN CARTER:** Thank you.

3 Commissioners, we have -- and I do sincerely
4 appreciate you, Jane, our court reporter, because I just looked
5 at the clock, and we just blew right through lunch and
6 everything else.

7 But let's do this, Commissioners. And thank you,
8 Commissioner Edgar, because we looked at this chart, and
9 everyone has a copy of it now, all of the parties have a copy
10 of it, and we have looked through this chart, and we looked at
11 the areas of interest in terms of the significant areas, which
12 would have been 25-4.066, availability of service; 25-4.070,
13 customer trouble reports; and 25-4.073, answering time. And I
14 think, as I said, is that we have pretty much gone where no
15 Commissioner or Commission has gone before on this. And as our
16 counsel told us, these are proposed rules. And, Commissioners,
17 I'm open for a disposition on how should we proceed further.

18 Commissioner Edgar, you're recognized.

19 **COMMISSIONER EDGAR:** Mr. Chairman, if this is the
20 appropriate time, and if our other members are ready, I'm ready
21 to offer an amendment -- or, excuse me, not an amendment.
22 Actually, maybe an amendment. Actually it includes an
23 amendment.

24 Let me start over. I am prepared, if you are ready,
25 to try to craft a motion that I would welcome comments, any

1 comment to, but to try to craft a motion that to the best of my
2 ability tries to incorporate the comments that I have heard
3 from each of you. And if I get it wrong and have misunderstood
4 a concern or a statement, please know that that is
5 unintentional.

6 Do you want me to give it a whirl?

7 **CHAIRMAN CARTER:** You're recognized. Do you have a
8 question? One second.

9 Commissioner McMurrin has a question.

10 **COMMISSIONER EDGAR:** Oh. And I certainly can wait,
11 as well.

12 **CHAIRMAN CARTER:** You're recognized, Commissioner
13 McMurrin.

14 **COMMISSIONER McMURRIAN:** I apologize, but I guess I
15 sort of assumed that we would be talking about other rules.

16 **CHAIRMAN CARTER:** Too late.

17 **COMMISSIONER McMURRIAN:** I know it's 3:00 o'clock.

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

19 **COMMISSIONER McMURRIAN:** But in my mind we haven't
20 gone through some of the others that I at least had questions
21 about. They are not very well organized, and it will take some
22 time, but I had questions on some of the areas. For instance,
23 with respect to the CIAC rule, I think with respect to --

24 **COMMISSIONER EDGAR:** Commissioner McMurrin, which
25 number is that, I'm sorry?

1 **COMMISSIONER McMURRIAN:** I'm sorry.

2 **COMMISSIONER EDGAR:** I don't have the numbers in my
3 head.

4 **MR. MAILHOT:** .067.

5 **COMMISSIONER EDGAR:** Thank you.

6 **CHAIRMAN CARTER:** Let's do that now. You're
7 recognized.

8 **COMMISSIONER McMURRIAN:** Okay. In 25-4.067 about the
9 extensions, I wanted to ask staff about how the sunset of the
10 COLR obligation, which just came about, I guess, January 1st of
11 2009, affects the rule that is on the books now or might affect
12 the staff proposed changes.

13 **MS. COWDERY:** Commissioner, I'll address that for
14 staff. At this time, what staff is thinking about doing is
15 having a separate rule docket, or a docket that could lead to a
16 rule change to investigate that, because at this point an
17 analysis has not yet been done.

18 **COMMISSIONER McMURRIAN:** So are you still proposing
19 changes to 25-4.067 today, then?

20 **MS. COWDERY:** Yes.

21 **COMMISSIONER McMURRIAN:** Okay. But how -- I guess
22 how am I supposed to be comfortable with voting for the changes
23 if I don't understand the implication of the statutory sunset?

24 **MR. MAILHOT:** Staff feels reasonably comfortable with
25 the changes that we've proposed here. Whether or not there

1 needs to be further changes or further repeal of parts of the
2 rule, we really need to investigate that. You know, there's
3 issues about whether or not, you know, the ETC requirements
4 apply from federal standards, and there's all kinds of things
5 that haven't been really fleshed out in this docket whatsoever.

6 **MS. CLARK:** Mr. Chairman, again, I don't want to
7 interrupt your chain of action here, but, you know, some of the
8 rules we did want to respond to what staff had put out there
9 and the comments made, and I'm just wondering when the
10 appropriate time to do that is.

11 **COMMISSIONER EDGAR:** Mr. Chairman, however you would
12 like to proceed. I was kind of under the impression that we
13 had narrowed down, but if I misunderstood, then I apologize.
14 I'm not trying to shut anything down. I will follow your lead
15 and look to you whenever you are ready to look to me.

16 **CHAIRMAN CARTER:** Commissioner, the oversight was my
17 own. It was my suggestion that we had done that.

18 Let's do this, Commissioners, I would hate to have
19 wasted all this time. We didn't have lunch or anything like
20 that, and Jane has been working triple-time, overtime, and
21 double-time. Since .067 is a rule that for all practical
22 purposes may very well be sunset by the Legislature, this is
23 just me thinking, I don't know why we even need to deal with
24 that unless it's something that gives someone heartburn here on
25 the bench, Commissioners.

1 Commissioner McMurrian.

2 **COMMISSIONER McMURRIAN:** Chairman, I don't -- and I
3 didn't mean to overly complicate it. Again, we are already
4 there, and I recognize that -- I mean, it's no secret, we're
5 probably going to have a difference of opinion on some of these
6 other rules, the ones we have already been through. And I
7 realize rulemaking is separate than, you know, our normal
8 orders, and we don't necessarily take a vote on each provision
9 of each rule and that sort of thing. And so already I'm going
10 to be at a different place, I think, than some of you, so I
11 don't mean to belabor --

12 **CHAIRMAN CARTER:** Hang on. Let me just interrupt you
13 for a moment, please. If this is an issue that is going to be
14 sunset, and staff has said that they are going to come back to
15 us with a recommendation, we don't even need to deal with it.

16 **MS. CLARK:** Well, Mr. Chairman, I think you do for
17 this reason. It is implementing a provision that requires
18 extension of service when the law no longer requires it.

19 **CHAIRMAN CARTER:** You know, this is Groundhog Day.
20 You know what, Commissioners, in all fairness to the court
21 reporter, she has been -- we've got one court reporter. We
22 have been at this since 11:00 o'clock. And I did think -- I'm
23 an eternal optimist, and I did think that the issues that we
24 were dealing with were the ones that had been delineated by
25 OPC. And no disrespect to any Commissioner, obviously we can

1 talk about anything we want to, but OPC, AARP, the Attorney
2 General's Office, the Communication Workers of America, and
3 those issues that had to deal with those specific areas.

4 . But if that is being the case, let's do this,
5 Commissioners, let's kind of -- I'm going to exercise something
6 that may throw you guys a curveball. We are going to TP this
7 issue for one minute. We're going to TP this issue for one
8 minute, and I will get back to you in a minute. But first
9 let's move to Item 6, I believe it is, which is a panel between
10 Commissioner Skop, Commissioner Argenziano, and myself.

11 Staff. And I'll get back to you on that in a minute.
12 So you guys don't leave the room.

13 * * * * *

14 **CHAIRMAN CARTER:** We are back on Item 3. And when we
15 left I had interrupted Commissioner McMurrin.

16 Commissioner McMurrin, you're recognized.

17 **COMMISSIONER McMURRIAN:** I think it may help me if I
18 ask some questions of the General Counsel. So, Mary Anne, I
19 apologize, and I know I'm kind of putting you on the spot, but
20 I think I need some help in what is developed as a result of a
21 decision today.

22 I mean, obviously I'm not where at least some of my
23 colleagues are, and what I'm struggling with is there are 16
24 piece-parts, and I may have issues with several piece-parts,
25 even some of the piece-parts that we haven't discussed. And I

1 don't know whether or not I need to articulate exactly where I
2 am, and I don't even think I should articulate where I am on
3 some things until we hear from all the people that might be
4 affected. But I keep going back to if I'm not where the rest
5 of the Commission is anyway, is it really worth everyone's time
6 hashing through everything else in the rule if I'm going to
7 essentially dissent, you know, on what might be a motion.

8 And I'm not trying to guess at what the motion might
9 be, but it's clear to everyone in the room that I'm probably at
10 a different place, at least on some of the issues.

11 **MS. HELTON:** Today what you are voting to do is to
12 propose rules. So if no one sitting at the table here
13 disagrees with the rules that you propose within 21 days, then
14 the rules that the Commission votes out today would be deemed
15 adopted and they would be filed with the Secretary of State as
16 effective changes to the rules.

17 Any changes that are made from what happens today
18 would have to be made through the mechanisms that are available
19 to us from Chapter 120, and that is people could file comments
20 and you could make changes based on those comments, or someone
21 would request a hearing and we could have a -- the kind of
22 forum we're doing today, which would be more like a legislative
23 process. There's no sworn testimony. It's people coming and
24 giving you their opinions about what would happen as a result
25 of the rule.

1 There may be an instance where someone has issues
2 with some of the rules, and not all of the rules, so only those
3 rules for which a hearing is requested and only those rules for
4 which comments are filed may those be changed after you vote to
5 propose them today.

6 What gets issued by the Commission is a notice of
7 rulemaking. I don't know that we have ever had a dissent
8 attached to that, but if that's something that you want to do,
9 I'm sure that that's something that we could work out and get
10 from you before it gets issued by the Clerk's Office so that
11 there will be some codification of what your thoughts are.

12 Does that help?

13 **COMMISSIONER McMURRIAN:** It does. But with respect
14 to the 16 rules that are at issue, would I need to say which
15 rules I would be in agreement with the motion and which ones I
16 would not be in agreement with the motion?

17 **MS. HELTON:** Probably for purposes of a clear record,
18 I think that may be appropriate to do.

19 **COMMISSIONER McMURRIAN:** Okay.

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

21 **COMMISSIONER McMURRIAN:** Well, I guess the other
22 quandary -- because, again, I know the hour is late and we went
23 through a lot of this, and I don't want to keep the other
24 Commissioners here hashing through some concerns I have if the
25 end result is that I've got a difference of opinion from the

1 overall decision.

2 At the same time, if I'm going to say where my
3 differences of opinion are, I think that we have to discuss
4 those parts of the rule. And in some cases I'm not really sure
5 if I have a difference of opinion until we hash that out. So
6 that puts us back in the position of going through specific
7 rules and hearing from the parties. And, you know, I don't
8 really know if that's fruitful or not, because at the end I may
9 not -- you know, I may not have a lot of input that changes
10 overall where I need to go.

11 But given what Ms. Helton said as far as if I need to
12 give input on specific rules, then I think we probably need to
13 hear from the parties on what their positions are on some of
14 those subparts.

15 **CHAIRMAN CARTER:** Okay.

16 Commissioner Edgar.

17 **COMMISSIONER EDGAR:** If I may, I would just like to
18 reiterate. I know I said this earlier, and said that I was
19 ready to make a motion, but that was my mistake in that I did
20 not realize that there were other pieces that you or others had
21 not yet had the opportunity to speak to. So I apologize if I
22 jumped ahead. It was not my intent to try to avoid further
23 discussion on other issues at all.

24 And if there are from some of the individual rules of
25 the 16 or so that you have some questions or concerns about, I

1 welcome the opportunity to hear those and learn from that
2 further discussion. And, you know, I am a little hungry, but
3 I've got my cardboard tasting granola bar, and, you know, it is
4 far from the end of a business day. So please do not rush on
5 my account.

6 **COMMISSIONER ARGENZIANO:** Mr. Chair.

7 **CHAIRMAN CARTER:** Commissioner Argenziano.

8 **COMMISSIONER ARGENZIANO:** I'm sorry, it may have been
9 said and I was reading something. We are voting on proposed
10 rules, and if we vote on those proposed rules, they are still
11 subject to amendments, are they not?

12 **MS. HELTON:** They are subject to changes from what
13 you vote to propose today, but those changes have to be based
14 on some kind of a record, either comments that are filed by
15 interested persons, or comments that are raised, or issues that
16 are raised during the course of a rule hearing.

17 **COMMISSIONER ARGENZIANO:** And what's the next step
18 after we vote on proposed rules today?

19 **MS. HELTON:** If no comments are filed, no hearing is
20 made, then the rules would be filed as they were proposed with
21 the Secretary of State. If comments are filed and no hearing
22 is requested, we'll be back here again discussing the comments.
23 If a rule hearing is requested, then I'm assuming that the
24 Commissioners would preside over the rule hearing. Has that
25 been contemplated?

1 **MS. MILLER:** That's correct.

2 **MS. HELTON:** So the Commissioners would be sitting
3 listening to the discussion at the rule hearing. One option,
4 though, may be to propose the rule and set it automatically for
5 hearing. If there is some discussion that -- that may be a
6 better --

7 **COMMISSIONER ARGENZIANO:** It's probably going to
8 happen anyway.

9 **MS. HELTON:** A better use of time.

10 **COMMISSIONER ARGENZIANO:** I guess my point is that we
11 have more information from all parties at that time. Even if
12 we vote for the proposed rule today, it's not the end, because
13 there is going to be probably a hearing. And if we did it with
14 the hearing set, that ensures that there would be additional
15 information and testimony is the way I see it. It's not the
16 final version of anything today by any means.

17 **CHAIRMAN CARTER:** Commissioner McMurrrian.

18 **COMMISSIONER McMURRIAN:** I appreciate that. I mean,
19 I guess that sort of depends on whether or not there would be a
20 petition for a hearing filed by some party. And I don't know,
21 but my inclination is to look at Ms. Clark, given some of the
22 discussion. And you may not be ready to answer that, but are
23 we going to -- is it your sense that we are going to end up in
24 a hearing regardless?

25 **MS. CLARK:** Commissioner, I don't know how to answer

1 that.

2 **COMMISSIONER McMURRIAN:** You're right.

3 **MS. CLARK:** It depends on the outcome today.

4 **COMMISSIONER McMURRIAN:** Okay.

5 **MS. CLARK:** I mean, we have been --

6 **CHAIRMAN CARTER:** I think, Commissioners, that the
7 parties here, both from the companies as well as the Office of
8 Public Counsel, AARP, the Attorney General's Office, the
9 Communication Workers of America, and from the discussion that
10 we have had on just these few rules that we have discussed
11 today, I don't see any symmetry. And that's a term of art. I
12 don't see that there is any symmetry in terms of positions.

13 By the same token, we do want to hear from the
14 parties in terms of where they are and as we go forward. But
15 as our counsel told us, we will be proposing a set of rules and
16 the parties will be able to present their positions on those
17 rules, and/or disagreement, and ask for a hearing.

18 Commissioner Argenziano. I'm thinking aloud, so bear
19 with me.

20 **COMMISSIONER ARGENZIANO:** Aren't most of the other
21 rules stipulated?

22 **CHAIRMAN CARTER:** I started off going down this road
23 about stipulations and I was corrected.

24 **COMMISSIONER ARGENZIANO:** Well, there are some that
25 are not; but the majority of them, pretty much everybody looks

1 like they are in agreement with, that doesn't mean
2 Commissioners are, but --

3 **MR. GREER:** Commissioner, they are not stipulated,
4 but I think the ones that we have spent a lot of time on are
5 clearly the more controversial out of the ones that are there.

6 **COMMISSIONER ARGENZIANO:** Right. Indicating to me --
7 there's no guarantee, but indicating to me that we will be back
8 on this issue.

9 **CHAIRMAN CARTER:** We'll be back. And as I said, I do
10 want to be fair to the parties and give them an opportunity to
11 be heard. Notwithstanding the fact that we have been here for
12 most of the day, I do want to give the parties an opportunity
13 to be heard. And I do think that, as I said earlier, I was
14 just halfway jokingly saying that there is no symmetry on the
15 issues, because I do think that on the one hand is that the
16 issues that Mr. Beck, and Ms. Bradley, and Mr. Twomey, and Ms.
17 Perry raised are obviously inconsistent with the positions of
18 the companies. A lot of the recommendations that staff has put
19 within the confines of this matrix that we have been looking at
20 that was presented to the parties is inconsistent with the
21 positions of the company. We have had -- although we did have
22 a lot of comment initially from the parties in terms of where
23 they were, I believe, Commissioners, that we can proceed
24 further.

25 And I believe that any party -- and, Ms. Helton, you

1 can correct me if I'm wrong, but I believe any of the parties
2 can request a full hearing on this matter, is that correct?

3 **MS. HELTON:** It would be a rulemaking hearing under
4 120.54.

5 **CHAIRMAN CARTER:** I do want to do this, though,
6 before closing the gate or anything like that. I do want to
7 hear -- I know we heard from them initially, but I do want to
8 hear from the parties, because they have had an opportunity to
9 hear us in our discussions. And also as we get further in, I
10 think there is 16 other rules that we are dealing with here,
11 other discussions that Commissioners may want to have later on
12 and go from there.

13 Let me do this, Commissioners, if you will bear with
14 me. Let me just kind of go down and give the parties an
15 opportunity to be heard. And if there is any time left, and I
16 hope that there is, that we can make some comments and give
17 staff some further direction and make a disposition on this
18 matter and go further.

19 Ms. Clark, you're recognized.

20 **MS. CLARK:** Yes, Mr. Chairman. Thank you very much
21 for the opportunity to succinctly state where we are in the
22 rules that we have set out in our matrix. Those are the ones
23 that we have suggested changes for.

24 You know, when we started out with this process,
25 again, we suggested the elimination of these rules. We still

1 believe that's the appropriate way to go, but we heard what you
2 had to say about your concern for basic customer's
3 telecommunications service, that people have the opportunity
4 for their voice service, and that's why we suggested as a
5 safety net that it be limited to the basic telecommunications
6 services. And we believe the distinction we have made is
7 consistent with what has been the distinction all along by this
8 Commission between basic and nonbasic.

9 I would point out that same safety net is not
10 available to customers of other competitor CLECs and the like.
11 The other safety net is if it doesn't work, you always have the
12 opportunity to come back and do a rulemaking. If you see that
13 complaints go up or customers are unhappy, you do have the
14 opportunity to come back. But we think the time is right to
15 make this change.

16 Now, at some point I heard that it is a small
17 percentage of customers that would be basic customers and
18 affected by this rule. I think you heard Stan say it was
19 1.2 million for them, roughly 40 percent of their customer
20 base. I understand it is about the same for Embarq, so it's
21 not a small number of customers for which this rule would
22 apply.

23 Let me just go back to the rules and quickly go
24 through them; .066, that is the one where we suggested it be
25 limited to basic service, and I have indicated the reasons for

1 that, and we have provided our changes. The extensions of
2 facilities, the contributions-in-aid-of-construction, this is
3 the one we have indicated is affected by the expiration of the
4 carrier of last resort. As we say in our comments here, we
5 believe it makes no sense to have a rule dictating how you have
6 to provide -- cost that extension when there is no requirement
7 to do it. It may be, in fact, counterproductive to people
8 coming in, to companies coming in to do that. Our suggestion
9 is that you have it put in tariffs and you can look at it when
10 those tariffs are filed.

11 **MR. MAILHOT:** Commissioner McMurrin. I'm sorry.

12 **MS. CLARK:** I was just going to finish.

13 **CHAIRMAN CARTER:** Let her finish.

14 **MS. CLARK:** With regard to .070, again, that is the
15 issue of having it applicable to basic. We also think that it
16 is appropriate to have the level instead of 95 percent, the
17 80 percent. I would want to indicate to you that the
18 95 percent within 24 hours on an exchange basis is extremely
19 aggressive, and my information is there is no other state that
20 requires that kind of measurement. I don't think I'm wrong on
21 that; and if I am, I would want the folks to correct me.

22 Adequacy of service. That is another one we have
23 indicated we think should be amended so it no longer applies.
24 We believe that this can be addressed on a complaint basis.
25 It's something that is covered by industry standards, and I

1 think if you look in the staff recommendation they have
2 indicated they are comfortable with having rules repealed where
3 it is not a problem, and I would suggest to you that is one of
4 those. As is the transmission requirements. This is an area
5 where the industry self-polices itself. CLECs don't have to
6 comply with this, and the interconnection is being done.

7 Answering time for residential service. The staff
8 has covered our suggestions. We do believe 120 seconds, which
9 is 30 seconds more than your staff is recommending, is
10 appropriate.

11 Finally, we've suggested changes -- I think it's
12 finally -- to the customer billing for local exchange
13 companies. We provide a more thorough analysis of a comparison
14 of the FCC requirements and the statutes, and that is why we
15 believe a simple rule that adopts the FCC requirements will
16 cover what needs to be covered in this area, and it provides
17 the companies with the ability to -- it makes a uniform
18 requirement in this area, which makes it more efficient for
19 them to comply with it.

20 And I should add, everything else we are okay with.
21 You know, we appreciate the staff's effort. We appreciate your
22 effort, but these are the things we have focused on and believe
23 need to be changed consistent with what we have requested.

24 Thank you, Mr. Chairman.

25 **CHAIRMAN CARTER:** Thank you.

1 Ms. Kaufman.

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

3 I will be very brief, and that is as to the three
4 rules that we spent most of the time on, answer time, repair
5 time, and installation, and as to any changes that you may
6 propose as to any of these rules, we would request that you
7 include the language that we have agreed upon in our
8 stipulation with the ILECs and which they agree should be
9 included in any notice of rulemaking.

10 Thank you.

11 **CHAIRMAN CARTER:** Thank you.

12 Mr. Beck.

13 **MR. BECK:** Thank you, Mr. Chairman.

14 I really have nothing additional to add. We
15 appreciate the time you have taken to hear our concerns today.

16 **CHAIRMAN CARTER:** Ms. Bradley.

17 **MS. BRADLEY:** I would encourage you not to do
18 anything that would decrease the service quality for our
19 consumers. Telephone is -- you know, as someone commented
20 earlier, it is not a luxury anymore. It is a really a vital
21 part of our households these days, and a lot of people depend
22 on it for very important things. And when we start decreasing
23 the time it takes to get repaired, as Mr. Beck mentioned, you
24 know, that's time if they can't dial 911, that's time if they
25 can't dial family for other things they may need. And this is

1 a very serious thing for a lot of people that are homebound or
2 don't get out very much. They rely on their telephone service.
3 So that's very important.

4 Answer time. It may not seem like a lot of
5 difference, but if you're the one that has no time to spend
6 period, and is on the phone waiting all that time just to get
7 some assistance, that seems like an eternity. So I would
8 encourage you not to make that worse. It's bad enough trying
9 to get help now.

10 And the other comment I would make is as to
11 competition. I am at a loss as to how they find this
12 competition, because I sure can't find it. And a lot of people
13 that are calling and talking to us can't seem to find it
14 either. Applying their analysis in a real world setting is
15 kind of like that saying if you have a company making footballs
16 and a company that's making baseball bats come in, they now
17 have competition, and that's just not realistic.

18 To be competition you have got to apply the same
19 service. And while we like cell phones, while we like cable,
20 and satellites, and all of these other things, it's just not
21 the same and it doesn't provide the same service. So a lot of
22 people, especially in the rural areas, but in places like
23 Tallahassee there's really not competition, so I would
24 encourage you not to change these rules.

25 Thank you.

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

2 Ms. Perry and then Mr. Twomey.

3 **MS. PERRY:** Thank you very much for letting me speak
4 today. I do appreciate it. And I wanted to wish everybody a
5 happy new year and congratulations.

6 There have been many questions left unanswered in
7 almost every meeting that we have been in. We have not hit on
8 every one of these topics at all. And as you see, it's because
9 they are so very complicated. And you are about to take
10 something that is very complicated without knowing the
11 repercussions thereof and imposing that on consumers who
12 thought they were getting lesser price for service and now are
13 going to have lesser quality of service.

14 Like I said, I had quite a few questions, and I guess
15 instead of going through all that I have, I just want to say
16 the consumer information program in this has been gutted. Now,
17 I know in 1991, we worked really hard at trying to get the
18 consumer information program in the law. And the
19 representative did get it into the law, and it was to make sure
20 that the consumers know what's happening in the communications
21 industry so that they can be aware of what's going on so that
22 they know what slamming and cramming really is so they know
23 when it happens to them. They know that happened to me, you
24 know, so they understand what is going on. And it is totally
25 gutted in this rulemaking.

1 There is next to no consumer standards. It is turned
2 into, you know, we can pay the deposit off in three months, or
3 the installation off in three months. I bet you not one of the
4 ILEC customers know that these hearings are going on. I don't
5 know of a lot of people that read the administrative whatever.
6 I know I don't read it. But I don't know a lot of customers
7 that read it. So the customers in the state of Florida really
8 don't know all this is going on. They really don't know they
9 are about to see a decrease in the candy bar. And, you know,
10 aren't they aggravated very much so when they see that decrease
11 in the candy bar, or the Nikes go overseas, and all of those
12 employees that were making \$15 an hour now have no jobs, and
13 they are still paying the same price for sneakers that are only
14 costing them 89 cents now.

15 So I really have to say that we do not support what
16 is going on here. That the consumers in the state of Florida
17 have not really -- there has been no real big thing in the
18 newspaper letting the consumers know that all of this is going
19 on. You know, some people say, oh, well, the market will do
20 what it needs to do. But, you know, your lawyer that takes
21 care of -- the PSC lawyer that takes care of the legislative
22 process, she testified before the Senate and before the House
23 committees just this last week. And what she said was that
24 they were still not sure that all customers in the state of
25 Florida, because the carrier of last resort is going away, that

1 all customers in the state of Florida will have access to
2 communication.

3 I know the Florida Consumer Action Network came here
4 to tell you that there are places in Florida that don't give
5 you an option for another service. One of your Commissioners,
6 two of your Commissioners said the same thing. You know,
7 answer times, you know, 90 seconds, 30 seconds, 120 seconds;
8 well, you get on the phone and you go through eight -- you
9 know, eight press this, press that, press the other. Each of
10 them has three or five buttons. You know, most people give up
11 because they're on a fifteen-minute break. At least the
12 consumers that I deal with, that I know.

13 So we are touching things that the rest of the
14 consumers in Florida don't even know we're touching. And I
15 asked for a definition, and your staff is wonderful -- please
16 don't think that this is any type of impression on your staff,
17 I think they're wonderful. They do a very good job. But I
18 asked for an explanation of what an extension of service is.
19 Is that an on-premise extension, an off-premise extension? I
20 don't know if I'm thinking about the right thing, but if I'm a
21 residence customer and I have phone service in my house, and
22 now I want it out back in the barn or out back in the guest
23 house, does that mean that all of that's going away and it can
24 only be done electronically?

25 And what about the federal government? They demand

1 the ground -- the wires in the ground. They won't allow
2 electronics, I know because we worked on a couple of things
3 already since May that dealt with off-premise extensions.
4 Off-premise extension. On-premise extension is what is on your
5 own property and you don't have to cross any access way.
6 Off-premise extension means you cross a public right-of-way.
7 So if you are a small business, and you have a townhouse, and
8 there is a public walkway in between downstairs and upstairs,
9 that would be considered an off-premise extension, even though
10 it is on the same property.

11 So, you know, there's a lot of things that no one is
12 discussing here. And you are about to do away with things. So
13 we would suggest that you look a little bit deeper into what
14 you are going to be doing to the consumers in the state of
15 Florida. You know, my workers are already hit. I have to tell
16 you. Let's see, this came out in October, and I know in the
17 nine-state area for my workers, 673 workers are going to be put
18 out of a job. And that's just for the first quarter of this
19 year. We have been losing people all along. I know we're down
20 almost 1,000 in my area, but --

21 **CHAIRMAN CARTER:** I'm going to ask you to wind up,
22 Ms. Perry.

23 **MS. PERRY:** I have one -- I know that in Fort
24 Lauderdale -- in the state of Florida we are losing 167
25 employees. Now, in Fort Lauderdale where I work, we are losing

1 47 employees, 28 are service technicians. Oh, let's not
2 degradate (phonetic) the service, let's just get rid of the
3 technicians. Kind of sounds like the Legislature. We don't
4 have any waiting list. Well, there is no one on the waiting
5 list because you don't have a waiting list.

6 And service representatives that answer the phones,
7 bye-bye 17 in just Fort Lauderdale. That's not all over the
8 state, that's just one county. So I just want to let you know
9 where we're headed, and the consumers don't even know about the
10 major decision you are about to make.

11 And my last statement would be please don't let the
12 industry change definitions that are not on this docket. And
13 changing basic service when it has a bundle on top, that is
14 something new. That has not been discussed in this docket. It
15 has not been discussed in the Legislature. And, again, I
16 apologize for getting loud. When I get excited, I get loud.
17 So thank you very much for at least listening to me.

18 **CHAIRMAN CARTER:** I think that's 90 percent of the
19 people in Florida. They get loud when they get excited. Thank
20 you.

21 Mr. Twomey and then Mr. Worley.

22 **MR. TWOMEY:** Do you want to take lunch first, Mr.
23 Chairman, before I wrap up?

24 **CHAIRMAN CARTER:** We are a long way from wrapping up,
25 Mr. Twomey.

1 **MR. TWOMEY:** I'll be very short. Stop and think
2 about the last thing that Ms. Perry just said. In contrast
3 with what she said about the companies letting workers go to
4 what you heard earlier about the companies wanting to have you
5 relax these standards so that they can deploy their assets
6 somewhere else, use them more efficiently, okay.

7 Now, she just told you, I don't know, I assume she
8 knows better the numbers, being a union official. I don't know
9 if those numbers are right. I will take her word for it, but
10 some of those people aren't going to be answering the phone
11 with the same rapidity as your current rules require. They're
12 not going to be fixing the phones as often as this Commission's
13 current rules require. They're not going to be installing the
14 phones as rapidly as this Commission's rules currently require.

15 They're not going to be out, some of them, Ms. Perry
16 just spoke to you about, aren't going to be out doing other
17 efficient stuff. Some of them are going to be on the street.
18 And that's going to result in the people of the state of
19 Florida that are customers of the utilities that you regulate,
20 the landline companies, forget the cell phone people, we'll
21 deal with them another day perhaps, it's going to result in
22 those people getting a degraded level of service as compared to
23 what this Commission's long time rules currently require.

24 On behalf of AARP, I will again adopt what Mr. Beck
25 said on behalf of the Office of Public Counsel, Ms. Bradley for

1 the Attorney General of the State of Florida, as well as what
2 Ms. Perry said. I don't need to repeat it. We have told you
3 which rules we are primarily interested in seeing retained in
4 their current form. I thank you.

5 **CHAIRMAN CARTER:** Thank you.

6 Mr. Worley.

7 **MR. WORLEY:** I don't want to take up any more of your
8 time, either. I want to reiterate that the FCAN, Florida
9 Consumer Action Network, feels like that we agree with the
10 Office of Public Counsel and the Attorney General's Office. We
11 asked for competition and we expected competition to decrease
12 the rates to the customers. There is no competition in,
13 especially now I understand, basic rates; and competition and
14 decrease of rates come from adding additional parts of a
15 bundle. We don't get any decrease in anything else.

16 But we just need some help out there, you know, and
17 doing this is not going to decrease our rates. And thank you
18 so much.

19 **CHAIRMAN CARTER:** Thank you, Mr. Worley.

20 Commissioners, we are back at the bench.

21 Wait. Jerry.

22 **MR. HENDRIX:** May I be recognized?

23 **CHAIRMAN CARTER:** You're recognized, sir. Jerry
24 Hendrix from AT&T.

25 **MR. HENDRIX:** A comment was made about workers

1 leaving. There was an article that was issued just about a
2 month or so ago where AT&T is reducing its force, I believe by
3 some 12,000. If you read that article, the article mentioned
4 because we are losing landlines. Customers are not staying
5 with landlines, they are going with cable, they are going with
6 wireless, they are going with other alternatives.

7 We are not laying off employees simply so we can have
8 a reduced workforce. When you're losing 20 percent of your
9 residential lines, those customers are going someplace.
10 They're not staying with us. The places that they are going do
11 not have the same rules or the same regs that we have. And
12 when you look at basic customers, as Ms. Clark mentioned, that
13 is 40 percent of our residential customers. And I believe she
14 mentioned there was something around the same number for
15 Embarq.

16 So we're talking market pressures, the market forcing
17 us to make corrections and to do the things that we need to do.
18 Are we wanting to provide excellent service to all of our
19 customers, as we do? The answer is yes, because I have other
20 products and services that depend on those landline customers.
21 If I do not have those customers, I will not be able to roll
22 those services out.

23 So we made an offer to carve out residential basic,
24 40 percent of our customers, and we're saying that we are
25 willing to leave those customers as we define basic to be an

1 ala carte plus the basic service. We're willing to leave those
2 customers under these rules, whatever the rules are. But for
3 the nonbasic customers, 60 percent of our customers that are
4 likely the primary target of those other providers of services,
5 then they will not be subject to the same rules. But we need
6 those customers to roll out the services that we need to roll
7 out to keep employees on the payroll and to bring investment to
8 the state. I do appreciate you giving me time to make those
9 comments.

10 **CHAIRMAN CARTER:** Thank you.

11 Commissioner Argenziano.

12 **COMMISSIONER ARGENZIANO:** Just a quick comment, I
13 guess. And while I understand that a lot of businesses are in
14 trouble, our economic state is not a good one at this time, but
15 I still remember AT&T arguing for competition, and I don't
16 understand how you argue for competition -- and I asked this in
17 committees. How are you arguing for competition when it will
18 affect your market share. So I don't think it's any surprise
19 since you argued here anyway for competition.

20 But when you say that you are offering the basic
21 residence as they are now, to give them that quality of
22 service, and I don't know how you can discriminate against
23 those who are actually buying bundled packages. I see a
24 different side to that, too. You are also offering up no
25 service to a lot of people who you may -- I mean, I can get a

1 call from AT&T at any time or something on the Internet that
2 says join AT&T. You're a basic service customers right now,
3 we're going to give you for free for the next year call
4 waiting. And all of a sudden I'm a bundled customer who
5 doesn't know that I have no quality of service.

6 So there's two sides to your pitch about offering up
7 the basic service guys that are there. You are also going to
8 gain a lot of people into your bundled services where you don't
9 have to provide that quality of service anymore. So that's the
10 way I look at it is it can work both ways, and it can work very
11 much to the your advantage, too.

12 **MR. HENDRIX:** And I certainly -- I mean, I certainly
13 understand that. The flip side of that is that the market will
14 determine whether we keep those customers and whether the other
15 services that we roll out are going to meet the needs of the
16 public, and whether the customer is going to buy it. And
17 certainly we are going to provide those customers excellent
18 service. If I can't beat those other players in the market,
19 then I lose. And I can't afford to lose.

20 **COMMISSIONER ARGENZIANO:** And just one final comment,
21 because as the Chairman says often we are not going to beat a
22 dead horse. And as I tell him often, it's against the law. I
23 was a committee chair when we made it illegal.

24 That works where there is competition, and in many
25 places there isn't competition and it doesn't work. So it's

1 great to let the market do what it can, because I'm a believer
2 of that when there is that competition in the market. But we
3 are talking about a whole other section where there is no
4 competition, and the market cannot help those other people who
5 will be lacking the service, who may be persuaded to move over
6 to bundled services as everything is indicating that people are
7 moving towards bundled service in hopes of getting cheaper
8 services. That's why I did it. I want these services, and I
9 want it cheaper. But then found that when I became a bundled
10 service customer, the price kept going up because there was
11 nobody else for me to go to until just recently. But in many
12 areas there is that lack, and it could benefit you in those
13 areas, too. So it works both ways.

14 **MR. HENDRIX:** And I understand. Ms. Clark pointed to
15 the competition report, and I believe about 85 to 90 percent of
16 the exchanges have alternative providers in those. And so, I
17 mean, we actually started with a test, you know, wherein you
18 would actually be able to measure that. And that didn't go
19 over very well, and so we were able to stipulate and get an
20 agreement, but that's no longer here.

21 But if I cannot operate in the market consistent with
22 the other players in the market, then I lose, and I can't
23 afford to lose. And I think this is an excellent opportunity
24 to ensure that we do what is best for the ratepayers of this
25 state, and I believe what is best is to let the market do what

1 it needs to do. And as Doctor Sappington said, the end users
2 benefit when the market is able to work. But we have the
3 safety valve for 40 percent of the customers that would be
4 under that service quality, and if we can't provide to nonbasic
5 customers excellent service, then we lose.

6 **COMMISSIONER ARGENZIANO:** And just not to beat a dead
7 horse again. I agree with that when there is a market, and I
8 do not agree with 85 to 95 percent. I could take you into at
9 least 13 counties that I'm very familiar with that do not have
10 that option. And because these numbers that we are seeing are
11 not specific, it's like doing a poll, you know, if you don't
12 ask the right questions, you don't get the right answers. And
13 I have some questions that I'm not getting answers to when it
14 comes to competition. You know, especially in the more rural
15 areas. If you say there is another exchange, is it possible
16 for that person to get out of their contract? Is there
17 somebody who can provide a cell service that actually works
18 without putting the aluminum foil ball on your head or doing
19 all of those tricks? So there is many things that sound great
20 when it comes to competition, when you shoot out a percentage,
21 but the little particulars aren't in that report that tell me
22 that, well, in that exchange where you say there is alternative
23 service, what is it and how many people who are stuck now in a
24 two-year contract who can't get out.

25 So what I'm trying to say is within that, and I agree

1 with you to some extent, you're right, the market has to move
2 and you guys need to have a fair and level playing field. But
3 when there is that market and when there isn't, what you are
4 also proposing can work to your advantage, also. Just as
5 without proposing it you are showing the deficits, there are
6 benefits to asking what you are asking in these rule changes,
7 too. And I see those. And that's what I'm trying to say.
8 That, yes, you see it your way; I see it both ways. There is
9 what you say in certain areas geographically in the state, and
10 then just the opposite where you would benefit; and it may be,
11 perhaps, your struggle to say alive that you need those rule
12 changes for those other areas where you, you know, are trying
13 to make up for that deficit. And I understand that.

14 **MR. HENDRIX:** I agree. And I would never sit here
15 and tell that you there aren't benefits to the changes that we
16 are asking. Otherwise we would not be here to ask for those.
17 But it is a matter of survival in the market, but also to
18 ensure that we satisfy what we understand the statute obligates
19 us to do. And we are wanting to ensure that we are not
20 operating under rules that are no longer relevant and at the
21 same time ensure that we are treated fairly.

22 **COMMISSIONER ARGENZIANO:** But how is quality of
23 service not relevant? How is saying that because you have
24 bundled services now, quality for you is different than the
25 basic service individual? So I don't understand that when you

1 say that it's outdated. I don't get that. I don't think I
2 would want to be moving backwards when it comes to quality of
3 service.

4 **MR. HENDRIX:** And I'm not saying that is -- when I
5 say it is not relevant, when you look at what is happening in
6 the marketplace and where we are facing the greatest threat and
7 the people that we are facing that greatest threat from, they
8 do not have those same service qualities standards. But as you
9 mentioned, even with your Comcast service, you had excellent
10 service.

11 **CHAIRMAN CARTER:** Let me do this. I'm sorry, Jerry,
12 I have to cut you off because I want to hear from Mr. McCabe,
13 and then Mr. O'Roark, and then I'm going to come back to the
14 bench.

15 **MR. HENDRIX:** Thank you.

16 **CHAIRMAN CARTER:** Mr. McCabe, you're recognized. And
17 then Mr. O'Roark, and then we will come back to the bench.

18 **MR. McCABE:** Tom McCabe with TDS Telecom.

19 I really, really had hoped not have to speak today,
20 and I think some of my cohorts wished I didn't speak, also.
21 But as a rural carrier, relaxing these rules is an important
22 part for us in terms of survival. Our prices are constrained.
23 We serve in rural area. And, in fact, I've got competition
24 from a cable provider, I have competition from wireless
25 providers, I have competition from the City of Quincy. I have

1 lost my second largest customer. I'm probably going to lose my
2 largest customer. Now at the same time, what we are talking
3 about is with my prices constrained, the only thing I can do is
4 control my cost.

5 When I was here at the -- when we had the Commission
6 workshop, we talked about answer times, and I provided data
7 from TDS in terms of what it costs us from the standpoint of
8 answering phones. And as you increase the answer times and
9 things of that nature it increases the cost to the tune of
10 about \$100,000 from going from 80 percent to 85 percent.

11 Having an extra \$100,000 to deploy for broadband is
12 something that we think is very valuable, and those are the
13 things that our customers are looking for from us. And we
14 operate in 26 states. We have over 120 small rural telephone
15 companies, and everything that we do in one company is the
16 same. I don't think that you are going to see this degradation
17 of service in rural areas because you have core principles in
18 terms of how you operate your business, and everybody is trying
19 to meet those things, and they are not going to change and say
20 this area is a rural area, it doesn't have a whole lot of
21 competition, therefore, I can ignore them. Your systems aren't
22 built that way. It is too expensive to do that. I mean, our
23 goal is to standardize our processes throughout the whole
24 country. I mean, we talk about local rates. My local rate is
25 \$13.05 and it has been that way for over ten years.

1 **COMMISSIONER ARGENZIANO:** I'm sorry, Mr. Chair, and I
2 know we're tired, and I appreciate -- I truly understand what
3 you are saying, but I don't think you are getting what I'm
4 saying. I really don't. Because I do understand what you are
5 saying, and what it is is actually a bigger issue. What it
6 comes down to is that the feds and the state policymakers have
7 to say that there has to be a level playing field for everyone.
8 But they haven't. There have been politically picked pieces of
9 who can do what, and where, and who gets to do what.

10 But you're sitting here asking the Public Service
11 Commission, or asking me, as an individual Commissioner, and
12 you are saying it is not going to degrade services when you are
13 actually here asking to change standards that are in place that
14 does change services. You can't say that going from 24 hours
15 to 72 hours does not degrade services. Or you can't say when I
16 tell you that I'm one of those people that are in an area that
17 I can't get the services that I need, and what will happen is
18 that because there isn't that competition in those other areas,
19 there is going to be a change in services.

20 So I'm trying to take what you say and say I want to
21 keep your companies whole and in business in the state of
22 Florida, and for the life of me, I used to scratched my head
23 when you came to committees and said that we want competition.
24 Couldn't figure out why you really did because this is exactly
25 where you would be when competition came. But in so many areas

1 in the state of Florida today there isn't that competition.
2 Regardless of what magazine or what darn piece of paper is held
3 up, I know it is not there. And to say that you are not
4 changing services, you are.

5 I think your bigger issue is fighting with the
6 policymakers and saying that there should be a level playing
7 field for everybody, cart blanche, this is the way it goes.
8 But not coming to us and saying because we want to be on a
9 level playing field, we can't get them to do it, we want you to
10 change the services. And I think that's the argument.

11 I can understand what you are saying, and I
12 sympathize with that, but to ask me to change the services and
13 then tell me I'm not, it's in the rule changes. You are
14 changing the services to the people and especially to those who
15 may be the most vulnerable.

16 And then one more thing and I will just not say
17 another word unless I am just so compelled to, is that, again,
18 if the company -- if I turn around and say you have basic local
19 services right now, and you are under these rules, I'm not
20 even -- we have to be there at a certain time, your quality of
21 service has to be a certain way, and I promote to you in your
22 bill, or on the Internet, or on the television that you know
23 what, basic service holder, you come with us today, we are
24 going to give you that extra little perk of a call waiting or
25 some other service. We are going to give you that for free for

1 a year. You now are a bundled service person, and you now are
2 not entitled to that quality of service, thus the company
3 survival stays -- it pays less money, and what is there a
4 disincentive for the company not to send out those promotions
5 for those extra features so that you don't have to provide them
6 that quality of service anymore?

7 So I can't get any more black and white than that.
8 And I love the fact that there's a lot of lawyers in the room
9 and you guys are trained to debate, but my mother swears that I
10 was born a lawyer and I'm here to debate you on that, too. But
11 I guess what I'm trying to say is I very much understand where
12 the companies are today, because I saw that coming a long time
13 ago. But I think your argument in saying that the changes will
14 not take place, just looking at the rules, I mean, you have
15 proposed changes that are reducing the quality of service that
16 you have today. So your argument doesn't stand with me when it
17 comes to saying you are not really changing the services.

18 **CHAIRMAN CARTER:** Commissioner, before Mr. McCabe,
19 before I come back to you, Commissioner Skop has been very
20 patient.

21 And you're recognized, sir.

22 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

23 I just wanted to recognize and commend the prior
24 speaker, Mr. Hendrix, for actually coming up after this long
25 process, and basically putting it on the table and telling us

1 exactly what's going to happen as the ramifications or as a
2 result of the change in definition. It gets right to the crux
3 of the concerns. And I really heartfeltly appreciate that,
4 because we have been vetting that issue and trying to flesh it
5 out to figure out what the proposed change actually means, and
6 in a very concise manner you came up and just put it on the
7 line.

8 Obviously, Commissioner Argenziano pointed out that
9 there is the good part, but there is also the benefit to the
10 company for doing so. But, you know, the 40/60 designation, I
11 mean, that clearly puts it on the table of what is at stake as
12 a result of the proposed change. So I do thank you, although
13 we may share some disagreement on issues, I'm trying to be
14 accommodating to ensure that there is that level playing field
15 in a competitive environment. But equally it seems that most
16 of this discussion is turned on a change in definition that is
17 kind of hard to figure out what's going on, but I think we have
18 put the nail on the head on that one.

19 But at least for me, a plain reading of the statute
20 does not expressly state that bundled service would preempt
21 basic local telecom services altogether, and I think that that
22 is the tension that I have. Because, again, I'm not the
23 ultimate policymaker, I just follow the current law. If the
24 law needs to be changed to ensure a competitive environment,
25 certainly that's an argument to be made to our Legislature.

1 But, again, part of the Public Service Commission is to ensure
2 that the consumer is adequately protected trying to be fair to
3 all the stakeholders. And, again, I'm trying to find a way to
4 make sense of the request, but it's difficult for me to get
5 there because I feel constrained by the statute.

6 And so I just wanted to express, again, my
7 appreciation to Mr. Hendrix for taking that extraordinary step
8 to come up and just put it on the table without sugarcoating
9 it. I thought that was very nice. Thank you.

10 **CHAIRMAN CARTER:** Thank you. Briefly, Mr. McCabe,
11 because we are going to Mr. O'Roark, and then we are coming to
12 the bench. So, briefly.

13 **MR. McCABE:** I understand. Just in conclusion, when
14 you're talking about the plain old basic telephone customer,
15 it's important that I'm able to maintain a large portion of my
16 customer base today; because if I don't have them, there will
17 be nobody there to take care of the individual that only
18 subscribes to plain basic service. But if you drive up my
19 costs that I can't compete with my competitors, which I do
20 have, I'm not going to be able to stay in business and keep
21 those individual customers. Thank you.

22 **CHAIRMAN CARTER:** Mr. O'Roark.

23 **MR. O'ROARK:** Thank you, Mr. Chairman. Good
24 afternoon, Commissioners. I'll be brief.

25 As you know, Verizon operates in the most highly

1 competitive service territory in Florida. You will recall from
2 this morning that during the most recent 28-month period,
3 Verizon lost more than 26 percent of its access lines. This is
4 a very important rulemaking to us. This case is not
5 theoretical, it's very real.

6 And to take a step back. As you recall, we have been
7 through two or three iterations now. The iteration before last
8 was our proposal that the service quality rules that we are
9 talking about be eliminated, and our justification which we
10 believe still holds is that there is sufficient competition
11 that the market will drive the optimal level of service
12 quality. Nevertheless, we listened to concerns like those that
13 are being raised today, and that's why we came forward with a
14 compromise. And as Ms. Clark outlined earlier, the compromise
15 is designed to promote -- to allow competition to drive service
16 quality to the optimal level. But at the same time give the
17 Commission comfort that there are safety nets that will protect
18 consumers on what we think is the extremely remote chance that
19 the market won't drive the results that we would all agree is
20 in the best interest of consumers.

21 Now, one of the safety nets that we have talked about
22 is ensuring that the rule continues to apply to basic
23 customers. I know that has been discussed at length, but one
24 thing I did want to mention was that that idea had its genesis
25 in one of your workshops, because there was concern expressed

1 that, well, sure, look, there's lots of competition for, you
2 know, wireless services, for cable bundles, for telephone
3 bundles that are accessible to higher end customers. But the
4 concern was, you know what, it may be that lower end customers
5 may not have some of those choices. And those are folks like
6 Aunt Tillie down the street who we really need to make sure is
7 protected. And the way we tried to get at that was to say,
8 okay, then we'll protect basic customers.

9 Now that is an overinclusive category, because there
10 are a lot of basic customers that do have plenty of choices.
11 And I'll just chime in because you have heard that AT&T and
12 Embarq have about 40 percent basic customers. I believe that
13 is about the same for Verizon. I don't have the numbers with
14 me here, but order of magnitude directionally that's about
15 right. So that safety net is there in the ILECs' proposal.

16 And then the other safety net is that we would
17 continue to have an objective service objective, for the
18 out-of-service and not out-of-service measure it would be
19 80 percent. I would start by noting that Florida has the most
20 aggressive objective in Verizon's footprint. And, again,
21 higher is not always better here. If higher were better, your
22 service objective would be 100 percent. But it's not 100
23 percent, because it would be impossible to meet. It would be
24 prohibitively expensive. Those costs would get driven down to
25 consumers who would either be stuck paying more, or more

1 likely, moving to other competitors who don't have any of these
2 safety nets.

3 So what the 80 percent would do is it would allow the
4 market to work. It would allow competition to drive service
5 quality to the optimal level, which is the service level that
6 customers are willing to pay for, but it would give you the
7 protection of knowing, well, just to make sure, it's not going
8 to go below a certain level. So that as we kind of try this
9 out, we can make sure that we are satisfied with the level of
10 service that customers are getting.

11 So I just wanted to wrap up with that big picture. I
12 think Ms. Salak said this before, that what staff was driving
13 at here was trying to deal with the fact that competition is
14 real and it's here, but also wanting to kind of have some
15 customer protection. And that is what the ILEC proposal does.
16 And as Ms. Clark also said, you know, if we try this and for
17 some reason you conclude it didn't work out as planned, there
18 is absolutely nothing stopping you from coming back and
19 adjusting the rule.

20 **CHAIRMAN CARTER:** Thank you.

21 Commissioner Skop.

22 **COMMISSIONER SKOP:** Thank you, Mr. Chairman. Just
23 three quick questions with respect to some of the comments that
24 were made. I guess, Mr. O'Roark, would you agree that the
25 bundled customers typically pay a higher price than those that

1 just have basic local service?

2 **MR. O'ROARK:** That's generally true, yes.

3 **COMMISSIONER SKOP:** All right. So if I understand
4 this correctly, and, again, for a moment please ignore the
5 unregulated competitive environment, because I understand
6 what's being done here. But it would seem that if a consumer
7 that is paying more to have a bundled product from an ILEC is
8 giving up the ability to have either their service restored or
9 their service installed by a certain date. I guess I'm having
10 trouble trying to figure out how that actually make sense,
11 because it seems to me that customers having basic and nonbasic
12 services would get connected after basic customers. And I
13 don't -- in terms of competition, if you're going for the
14 high-priced consumer, why would one want to gravitate towards
15 that business model?

16 **MR. O'ROARK:** Well, I think you have hit on the point
17 that when you're talking about these higher-end customers who
18 are desirable customers not only for ILECs, but cable companies
19 and our other competitors, there's no question that you have
20 got the incentive. You have this incentive for all customers,
21 but for the higher-end customers, you certainly have the
22 incentive to keep them happy so that you can retain them,
23 because they have got other places to go. That's why
24 conceptually it makes sense.

25 **COMMISSIONER SKOP:** Okay. And has Verizon at least

1 analyzed the potential cost savings that would be achieved
2 through the relief that might be afforded either via the staff
3 recommendation versus the ILEC proposed modifications to the
4 staff's recommendation?

5 **MR. O'ROARK:** No, to my knowledge we have not.

6 **COMMISSIONER SKOP:** Okay. Thank you.

7 **CHAIRMAN CARTER:** Thank you. Commissioners, any
8 questions of staff or the parties? Any further debate? Any
9 comments?

10 **COMMISSIONER McMURRIAN:** I have a question.

11 **CHAIRMAN CARTER:** Commissioner McMurrian, you're
12 recognized.

13 **COMMISSIONER McMURRIAN:** I have questions and all
14 about some of the other rules that some of the parties touched
15 on.

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

17 **COMMISSIONER McMURRIAN:** Thank you. I guess I'll
18 just touch -- maybe it would help for me just to go down this
19 list on staff's handout, and just say with respect to the first
20 three on the list, I don't think there is a lot of controversy
21 left with those. So I'll just skip -- in fact, I don't know
22 that there is any controversy with respect to those.

23 With respect to the availability of service, I think
24 we have covered that a great deal, and I favor including basic.
25 You know, I've explained it, I guess, a good bit before, but I

1 think that that is a concession, and that moves us a little
2 closer to where I want to be, and I think is sort of a
3 reasonable compromise. And I'll talk a little bit more about
4 that later, but I want to get on to the other ones that I have
5 questions with.

6 The CIAC, and I asked a question or two about this --
7 this is the last one on the first page -- earlier. I guess I
8 won't ask anymore questions about that. Well, I see Mr.
9 Mailhot. That's right, I forgot, you wanted to respond to
10 something that was said earlier about this.

11 **MR. MAILHOT:** Yes. I think I would like to clarify
12 our answer earlier to your question. The first part of the
13 rule, the first paragraph of the current rule requires the line
14 extensions, and we believe that by eliminating that first
15 paragraph that the rule is then in compliance with the sunset
16 of COLR.

17 **COMMISSIONER McMURRIAN:** Can you tell me what page of
18 the rec that rule is on, so I can find it? Maybe I've got it.
19 I've got it, Page 54. And you're saying by eliminating that
20 first paragraph --

21 **MR. MAILHOT:** Yes. In the first paragraph, the
22 current rule requires, it says they shall make reasonable
23 extensions to its lines. And that first paragraph, basically
24 by repealing that we believe that what remains of the rule is
25 consistent with COLR requirement. So the difference between us

1 and the companies is the companies basically don't want any
2 rule, but we're saying the rest of the rule sort of places
3 limits on how much they can collect, if they collect. It
4 doesn't say they have to do it.

5 **COMMISSIONER McMURRIAN:** Right. It lays out how you
6 would go about it if you do it.

7 **MR. MAILHOT:** Right.

8 **COMMISSIONER McMURRIAN:** But I guess to me it's
9 strange to have requirements in there about how to go about it
10 if you do go about it. I'm trying to be careful.

11 **MR. MAILHOT:** Yes. I mean, it's a matter of opinion
12 if you need a rule. I mean, the rule says if you do it you
13 will do it this way. If you don't want to do it, you don't
14 have to do it.

15 **COMMISSIONER McMURRIAN:** To me I think that what they
16 have proposed to put it in their tariffs seems reasonable given
17 that, but we don't necessarily need a rule anymore to tell them
18 exactly how to go about something that the statute doesn't make
19 them do, and it's a very recent change -- well, it's not a
20 recent change to the statute. I guess it's a recent -- it's
21 recent inaction by the statute to change the sunset date in the
22 statute is probably how I should propose it.

23 In my opinion, I think that allowing them to file
24 tariffs and have that laid out somewhere so someone that wanted
25 to know how it would be offered to them if they were to go

1 about an extension seems fair. I just don't think we need a
2 rule for that anymore. I don't know that it costs them any
3 more or anything, it just seems like it's something that's not
4 necessary for us to have on the books, and it suggests that we
5 are going to enforce that. That if they have tariffs and a
6 customer knows what to expect by looking at that, then that, to
7 me, should be sufficient. But perhaps I'm missing something
8 there.

9 **MS. SALAK:** It is sort of an unusual rule for me
10 because the industry has said that they want to be treated like
11 their competitors, and a lot of their competition is coming
12 from cable and wireless, and what I don't see is I don't see
13 CIAC being charged by cable and wireless. So I find this sort
14 of interesting that they would want to charge it at all. But
15 that's just an observation.

16 **COMMISSIONER McMURRIAN:** I'm not sure if by
17 suggesting, though, that there is elimination of the rule that
18 they are necessarily saying they want to charge it anyway. I
19 mean, I think they are just saying whatever our policy is we
20 want to put it in the tariffs. But maybe I'm misunderstanding.
21 I don't want to just keep the volleyball back and forth here.

22 **MS. SALAK:** Well, I don't think that they have
23 charged a lot CIAC in the past.

24 **MR. GREER:** No, Commissioner. This is Stan Greer
25 with AT&T. I don't think it's our practice to charge CIAC.

1 Essentially, the only instances of where we have got into a
2 position of having to seek to charge for that type of stuff is
3 in the MDU cases that came before here where we were restricted
4 in providing services and were not going to be able to get a
5 return on our investment for a period of time.

6 Generally, I think we don't charge CIAC, but that's
7 why we don't believe the rule is necessary, especially with
8 COLR going away.

9 **COMMISSIONER McMURRIAN:** And so, I guess, to follow
10 up on that, and I know that Commissioner Skop probably has a
11 question while we are on this, but why would our rule need to
12 tell them five times whatever -- why do we need to get into
13 that level of detail? They're probably not even charging it
14 that much, they are not required to do it anyway. Again, it
15 just seems like, when we are looking at streamlining rules,
16 this is a good candidate to me. But, again, I'll give you a
17 chance to --

18 **MR. MAILHOT:** And that's very true. It's just a
19 matter of opinion if you want any limits on what they can
20 charge or not for CIAC. That's what it boils down to.

21 **COMMISSIONER McMURRIAN:** Okay.

22 **MS. SALAK:** This is one of those consumer protections
23 we were talking about earlier that this limits them. I mean,
24 it's actually just a -- it's not a great limitation on it, to
25 tell you the truth, but if it's just a redundancy of facilities

1 for the general body then somebody shouldn't be paying for it,
2 one individual, and it just limits it to a minute amount of
3 revenue.

4 **CHAIRMAN CARTER:** Commissioner Skop.

5 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

6 I guess if COLR is actually going to sunset, and I
7 guess, you know, we have been through this discussion in the
8 past, and I guess what transpired, at least in a nutshell, was
9 that there was the deregulation of cable franchises from the
10 local level to the state level, which, you know, allowed
11 access, and basically that it seemed a become a tactic
12 of stranding ILEC assets by some of the cases that we discover
13 or had to spend a considerable amount of time on. So it seemed
14 to be some sort of strategic monopoly or strategic game playing
15 going on.

16 But in light of some of Commissioner McMurrian's
17 comments, I could see the ILEC position on this one to the
18 extent that as long as -- if there is no COLR provision, then
19 somebody is going to have to get service in the most
20 cost-effective means to them. And, again, that's the
21 policymakers that have stated that that is going away. But as
22 long as the price wasn't unduly high, and I think as the
23 gentleman has pointed out, where this really came into play was
24 predatory tactics to the extent that there was a barrier to
25 competition in some major subdivisions and such. So I'm not

1 necessarily sure that staff's proposed rule on this issue, I'm
2 not necessarily bound to it. I think you could go either way,
3 but I certainly would not be adamantly opposed to the ILEC
4 position on this.

5 **CHAIRMAN CARTER:** Commissioners, before we go
6 further. Any further comment on this, since we are on
7 25-4.067? Before Commissioner McMurrrian moves to another
8 issue, any further comments on that? We have heard from
9 Commissioner McMurrrian and Commissioner Skop on that.

10 Commissioner McMurrrian, you're recognized.

11 **COMMISSIONER McMURRIAN:** Thank you. And I appreciate
12 that, Commissioner Skop. And I guess to just follow-up, and I
13 think this is probably -- I appreciate where staff is coming
14 from. I think you are saying it just provides that extra
15 customer protection to have it there. I guess the way I look
16 at it is as long as you have a rule on the books, someone has
17 to make sure you're living up to that rule. And if you have
18 your own tariffs, you have a little bit more flexibility and
19 that sort of thing, and you still need to make sure you are
20 complying with what's in your tariffs. But I think it is
21 different than having it as a rule that we need to make sure we
22 are enforcing and that sort of thing different than tariffs.
23 And that's just a difference of opinion in how to go about
24 things. So, again, I think that it would be -- I think that's
25 something that's sufficient to have in the tariffs.

1 **MS. SALAK:** Commissioner, I would suggest that you
2 just repeal the rule in its entirety if you don't want it. I
3 wouldn't even have the language that said you need to put it in
4 your tariffs.

5 **COMMISSIONER McMURRIAN:** So are there any rules that
6 tell them what their tariffs have to contain, or is it just if
7 we don't have a rule they would put them in the tariffs, and we
8 don't need to have a rule that says tariffs.

9 **MR. MAILHOT:** I'm not sure if it's a rule or statute
10 that says that their rates, terms, and conditions have to be in
11 their tariff.

12 **MS. HELTON:** That's in the statute.

13 **MR. GREER:** But I think that generally applies to the
14 services that you provide. This is where your -- I don't know.
15 If the staff is interpreting that to be a rate, term, or
16 condition, then, okay, I guess. You know, we have special
17 construction tariffs that somebody asked us to do special
18 things and we have always had them in a tariff. If the
19 Commission wants to eliminate this altogether, I guess that's
20 okay. I just don't know whether or not payment of a special
21 construction charge or facilities would be deemed a service
22 pursuant to the tariff. I mean, pursuant to the statute.

23 **CHAIRMAN CARTER:** Ms. Helton.

24 **MS. HELTON:** Let me just say if there are
25 requirements that you want to prescribe for the companies to

1 follow, then those need to be in a rule. But if there are no
2 requirements that you want to prescribe, then you don't need
3 the rule.

4 **COMMISSIONER McMURRIAN:** And you don't need a rule to
5 say that they will file it in their tariffs, either.

6 **MS. HELTON:** No.

7 **COMMISSIONER McMURRIAN:** Okay. So I would suggest
8 repealing that rule.

9 **CHAIRMAN CARTER:** Okay.

10 **COMMISSIONER McMURRIAN:** Customer trouble reports. I
11 think we talked about that a good bit. I think the same thing
12 here. I have a concern -- I would prefer to put in basic. The
13 percentage that is included there with the -- I know we talked
14 a lot about the including -- sort of collapsing the two
15 different out-of-service and the nonout-of-service standards,
16 and staff has recommended that, and 95 percent in 48 hours.

17 **CHAIRMAN CARTER:** Just for the record -- excuse me,
18 Commissioner. Just for the record, Commissioners, we are on
19 the top of Page 2, 25-4.070.

20 **COMMISSIONER McMURRIAN:** Thank you.

21 So those same concerns apply. I don't know, of
22 course, where other Commissioners are about whether or not we
23 are -- it sounds like there was some concern about whether or
24 not the out-of-service should be treated differently. I know
25 Commissioner Argenziano made some points about that. But I

1 will say that I would support relaxing those standards, and I
2 think that's consistent with my overall comments. And, again,
3 I'll make those in a second and be fairly brief.

4 But, again, I would definitely support including
5 basic consistent with the other positions on some of the other
6 rules, and relaxing the standards somehow. I don't really
7 propose an exact standard, but, again, I think I'm going to
8 probably be at a difference of opinion with some of the other
9 Commissioners anyway, so I won't worry about throwing out an
10 exact percentage. And I'm sure we will come back to that. On
11 25-4 --

12 **CHAIRMAN CARTER:** Whoa, whoa. Let's stay there.

13 **COMMISSIONER McMURRIAN:** Okay.

14 **CHAIRMAN CARTER:** While we're there, let's deal with
15 it, and that way as we move forward, we can move forward. So
16 on here you are saying that you would rather include basic
17 service on 25-4.070, but you didn't know about what that
18 percentage would be, is that correct?

19 **COMMISSIONER McMURRIAN:** Yes. And I'm saying that I
20 would propose relaxing those standards consistent with my
21 overall view that we need to be relaxing some of these rules
22 given what's happening in the market. I don't have a specific
23 percentage. It also depends on whether or not you break the
24 out-of-service and the not out-of-service back out. And I
25 think there was some discussion by Commissioners about possibly

1 doing that, because I seem to recall some discussion about
2 customers being out-of-service being much more critical and
3 getting restored quicker than the not out-of-service. So,
4 again, what I am saying is I'm not throwing out percentages.
5 I'm not sure where we are --

6 **CHAIRMAN CARTER:** Let me do this. Let me go to
7 Commissioner Skop and we'll come back.

8 Commissioner Skop.

9 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

10 I guess this particular proposed change to the rule
11 has caused quite a bit of discussion. And I guess, at least
12 from my perspective, listening to the discussion of my
13 colleagues is that my hesitancy toward supporting the ILEC
14 position with respect to the proposed change centers on two
15 concerns. The first would be providing the timely restoration
16 of access to 911 service, and the second would be the large
17 percentage of the exemption from the customer base that would
18 result from customers selecting bundled features.

19 I'm open to working with my colleagues to try and
20 find some happy medium that may be different from staff, but
21 different, somewhat different from the ILEC. I mean, you know,
22 it seemed from the concerns I heard that Commissioner
23 Argenziano was very adamant about trying to keep the 24-hour
24 restoration time to, again, provide that timely restoration of
25 911 service. You know, that could be used as a bargaining chip

1 to try and provide relief in other methods such as Commissioner
2 McMurrian suggested, that maybe the clearing of those lines may
3 not need to be 95 percent, maybe it could be 80. But, again,
4 my concern towards supporting the ILEC position outright,
5 again, comes down to that 911 service and the change to the
6 definition that I really don't feel supported by the statute.

7 **CHAIRMAN CARTER:** Commissioner Argenziano.

8 **COMMISSIONER ARGENZIANO:** I think you know how I
9 feel. I'm definitely opposed to changing that to the basic
10 service. Like I have said over and over again, I just think
11 that basic service is basic service no matter where it is, and
12 those things that are added to it, maybe there's a different
13 standard that applies, but not to the basic service. So I
14 could never go along that.

15 And I'm definitely opposed to changing the 24-hour.
16 I think that is probably the most critical thing or the thing
17 that bothers me the most. It's not relaxing, it's reducing
18 quality or dependency upon that phone that we have called the
19 lifeline to so many people, and taking away that especially
20 when it comes to 911 services or medical needs. So I'm very
21 much opposed to doing that.

22 **CHAIRMAN CARTER:** Commissioner Skop.

23 **COMMISSIONER SKOP:** Thank you.

24 Commissioner Argenziano, with respect to the
25 percentage of restoration, assuming that the 24-hour

1 restoration was maintained, the ILEC position, the 80 percent
2 cleared versus the 95 percent that's recommended by staff, do
3 you have a feeling on that one way or another?

4 **COMMISSIONER ARGENZIANO:** I'm not really sure, to be
5 honest with you. And I feel like at this late hour it may be
6 something that requires more thought.

7 **COMMISSIONER SKOP:** All right. Thank you.

8 **CHAIRMAN CARTER:** Commissioners, anything further on
9 25-4.070?

10 Commissioner McMurrian, you're recognized.

11 **COMMISSIONER McMURRIAN:** Okay. That brings us to
12 25-4.071. I think this one is the one that talked about the
13 busy signals and the number of rings per minute on the busy
14 signal, and that sort of thing. I have to confess, I don't
15 feel that strongly about this one. I'm not sure why it needs
16 to be in a rule. I'm not sure that that is something that
17 would change regardless of whether we have a rule or not. But,
18 again, I will just add that I don't feel that strongly about
19 it.

20 **CHAIRMAN CARTER:** Commissioners, we didn't really get
21 into a whole lot of discussion on that, and there was no
22 heartburn from what I was able to detect on that, so we'll
23 proceed further.

24 Commissioner McMurrian.

25 **COMMISSIONER McMURRIAN:** 25-4.072 on transmission

1 requirements, I did have some questions here for the staff.

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

3 **COMMISSIONER McMURRIAN:** Ms. Clark, and I think
4 perhaps some of the other speakers, I'm not sure, said that
5 this rule should be repealed because the industry uses
6 standards, ANSI standards as an industry standard. And they
7 talked about how the CLECs aren't required to meet these
8 standards. And because, of course, they interconnect with the
9 CLECs that this isn't an issue and as long as they have these
10 standards -- and as I understand it, the industry has like
11 standard boards and that sort of thing where they propose the
12 standards and they work together on coming up with those. And
13 so I wanted to ask you why do we need to retain a rule if there
14 is a process out there where the different players in the
15 industry can come together and decide what those standards for
16 interconnection are?

17 **MR. MOSES:** Well, there's forums that they do meet
18 and they do set internal standards, I guess, if you want to
19 call them that. It is really guidelines. For transmission you
20 have got end-to-end call characteristics that you have to take
21 into consideration. If you make a call from here to, say,
22 Spain and you have any part of that network that does not meet
23 those standards, you're not going to be able to hear the person
24 on the other end, or they won't be able to hear you.

25 Because they are using these standards as internal

1 does not necessarily mean everybody is going to follow them.
2 If you don't have it codified in a rule, we do not have the
3 ability to enforce anything if we find a problem out there.
4 And we have, on occasion when we have done our transmission
5 tests, run into problems where the local loop either didn't
6 meet the specifications necessary to provide you adequate
7 volume or there has been power influences that have been in
8 there that have caused degradation of the services.

9 There's various noise requirements that they must
10 meet. Sometimes there is noise induced on the lines that are
11 excessive and we have to address it with the telephone
12 companies. So the bottom line is if you don't have a rule
13 there is nothing you can do about it if you find a problem.

14 **COMMISSIONER McMURRIAN:** Well, I wanted to get to
15 that. I mean, if there is an underlying statute that gives us
16 authority for this transmission requirements rule, wouldn't
17 that underlying statute give us the ability to under a
18 complaint situation about what you described take action?

19 **MR. MOSES:** Not really. Because there's specific
20 language, I believe, in the ANSI standards that if these
21 standards are not adopted by an agency with the authority for
22 enforcement that they are really not a standard. It's just
23 strictly a guideline that is put together by a forum of the --
24 I think it's the IEEE, if I'm not mistaken.

25 **COMMISSIONER McMURRIAN:** But I guess what I'm saying,

1 Rick, is that I understand what you're saying about industry
2 standards, and we can't enforce the industry standards, but is
3 there an underlying statute that gives us authority for this
4 rule to begin with that would give us the authority to say --
5 not that you are not meeting our rule, because granted there
6 wouldn't be a rule then, but to say that you are not complying
7 with the statute and that you are not providing a level of
8 service that we think the statute would suggest.

9 **MR. MOSES:** The problem with the statutes is they
10 don't address a specific guideline, such as the IEEE or the
11 ANSI standards. There's other forums out there, there's other
12 standards out there. It doesn't specifically say you shall
13 comply with this particular one. It is very vague and very
14 broad. So I would say no, that the statute gives you the
15 authority to adopt guidelines, such as the ANSI standards, but
16 it doesn't really specify that is the standard to follow. And
17 that's why we're thinking it's important to have it in a rule
18 so it is very clear to everyone what you have to go by.

19 **CHAIRMAN CARTER:** Commissioner Argenziano.

20 **COMMISSIONER ARGENZIANO:** As a matter of fact, I
21 believe it instructs us to promulgate a rule.

22 **MR. MOSES:** I believe you are correct, yes.

23 **COMMISSIONER ARGENZIANO:** That's the reason, because
24 it is nonspecific. So without the rule, it would still
25 probably not have enforcement because there would be no

1 specifics, and that is why we were to promulgate the rule.

2 **COMMISSIONER McMURRIAN:** So that statute, the
3 underlying statute for this tells us that we need to promulgate
4 a rule?

5 **MR. MOSES:** I'll wait for the attorney to catch up on
6 that one.

7 **MR. GREER:** Commissioner, this is --

8 **COMMISSIONER McMURRIAN:** I'd be glad to hear from him
9 if it helps clear it up, because I do want to understand it.

10 **CHAIRMAN CARTER:** Briefly.

11 **MR. GREER:** Okay. Commissioner, we just believe the
12 industry standards are the right thing to do. This Commission
13 has in the past looked at industry standards in various issues
14 that have come before this Commission, you know, to either tell
15 the companies you are either following the standard or you are
16 not. And generally what happens is they issue an order saying
17 you need to do this because that's what the industry standard
18 is, and we usually ended up dealing with that via some kind of
19 complaint process.

20 One of the bigger problems is this only deals with
21 us. I mean, I understand the issue of it having an issue
22 between Point A and Point B, but if I've got Point A, there
23 could be a whole number of folks that have Point B. And, you
24 know, me fixing it doesn't help it to get to Point B.

25 **MR. MOSES:** And that's not really what we are looking

1 at here, Point B, because if the Point B is done by another
2 person that we regulate, then we will be addressing it under
3 the same rule, and they may be following the standard.

4 But in your previous question about the statute,
5 364.15 is the statute, and it says that the Commission shall be
6 compelling repairs, improvements, or changes.

7 **COMMISSIONER ARGENZIANO:** Mr. Chairman.

8 **MR. MOSES:** The improvements might be --

9 **CHAIRMAN CARTER:** Commissioner Argenziano.

10 **COMMISSIONER ARGENZIANO:** You can't have a rule here
11 without it having authority for the rule.

12 **MR. MOSES:** Correct.

13 **COMMISSIONER ARGENZIANO:** It wouldn't be here. JAPC
14 would have already removed the rule. So it had to be allowed
15 and had to be directed for promulgation by the Legislature.

16 **MR. MOSES:** But I was trying to answer your question
17 as far as if you didn't have a rule, would you have the
18 authority to compel any repairs or anything. And you would
19 have the authority to compel it, but you wouldn't have a
20 guideline to compare it to to really tell the company that the
21 repair is necessary.

22 In other words, they could say, well, what are you
23 comparing this to. They could give you the argument that it
24 doesn't need to be repaired. What guideline are you saying
25 that it has to be repaired to? So without it being in a rule

1 you are really taking away your ability to clarify exactly what
2 the reference is that you are referring to. That's really the
3 only thing.

4 **MS. CLARK:** Mr. Chairman, you know, I think as I see
5 it the statute says that you do this by order, not by rule.
6 I'm curious as to what statute that they are pointing to. But
7 if you look at 364.15 it talks about compelling repairs, but it
8 speaks in terms of an order. And I would suggest to you if you
9 do find problems with it, the fact that there is an industry
10 standard out there is definitely something you could and should
11 look at in terms of determining whether or not you should order
12 repairs or order compliance with it. Because, you know, as I
13 was reading it, I was reading what they had under as law
14 implemented, and as I see it the law implemented would be
15 364.15, and it doesn't compel it to be done by rule, it speaks
16 to order.

17 **CHAIRMAN CARTER:** The rule gives enforcement, does it
18 not. That's where we get our enforcement authority from is
19 from the rule.

20 **MR. MOSES:** That is correct. And there is also
21 language in the ANSI document itself that says this is not a
22 compelling document unless it is adopted by a governing
23 authority.

24 **CHAIRMAN CARTER:** And without the provision in the
25 rule for enforcement, we can't do anything.

1 **MR. MOSES:** That would be correct.

2 **MS. CLARK:** I disagree with that, Mr. Chairman.

3 **CHAIRMAN CARTER:** Commissioner Skop.

4 **COMMISSIONER SKOP:** Just real quick.

5 Mr. Moses, could you repeat the statutory reference,
6 because I had some trouble hearing. Is it 364.15?

7 **MR. MOSES:** Yes, sir.

8 **COMMISSIONER SKOP:** Okay. And then just one quick
9 question, because I happened to be glancing on that page, and
10 it occurred to me, and I don't want to open Pandora's box, but
11 in my over-40 moment, I distinctly remember sometime ago during
12 my tenure on the Commission where we, I think, made some sort
13 of affirmative ruling that those consumers that choose to avail
14 themselves of Lifeline services would not be precluded from
15 also getting bundled things on top of that. Am I wrong on
16 that?

17 **MS. SALAK:** That did happen, and you are going to
18 hearing on it next month.

19 **COMMISSIONER SKOP:** Okay. Because it would seem to
20 me that, again, putting this in the context also about what is
21 basic and not basic, and I still have the same thing, but if a
22 Lifeline customer who needs that phone were to take a bundled
23 or a free service that would keep them out -- exempt them out
24 of the coverage of the rule for restoration of service, so that
25 might be countervailing policy, if you will, or bad policy. So

1 I just wanted to kind of throw that out there.

2 **CHAIRMAN CARTER:** Commissioner McMurrin.

3 **COMMISSIONER McMURRIAN:** Thank you.

4 So now I have the rule up in front of me, and I've
5 actually looked at this, I think Sunday, in reference to one of
6 these rules, I can't remember which. And I guess what I was
7 asking about, about promulgating the rule, and I agree with
8 Commissioner Argenziano, you can't have a rule without having a
9 statutory authority for it. And some statutes do say we
10 require or give direction to the Commission to promulgate a
11 rule, and so we need to have a rule.

12 And I was saying in this case does it do that. And
13 then Ms. Clark said something about by order, and I'm reading
14 that in here, too, where the Commission finds on its own
15 motion -- I'm sorry, do you need the reference again?

16 **COMMISSIONER ARGENZIANO:** No, go ahead.

17 **COMMISSIONER McMURRIAN:** Okay. Whenever we find on
18 our own motion or upon complaint that repairs, or changes --
19 and I'm leaving out some words, and I'm not trying to be, to
20 skip over them -- but it makes it sound like if there is a
21 complaint or something raised before us that we can, based on
22 the statutory jurisdiction we have according to the statutory
23 reference, that we can act upon that complaint, and that we
24 wouldn't necessarily have to have a rule.

25 I understand what you are saying about the rule gives

1 more specific direction about what you think the standard
2 should be. And I guess, again, that's where I think we're just
3 going to differ, that I don't think we need in this kind of a
4 case, given the industry standards and all the things we just
5 talked about, that I think we have got enough protection if
6 there's a problem that's raised that we can take action based
7 on what the statute gives us jurisdiction to do, without having
8 it spelled out in a rule for the few cases that we probably
9 have arise.

10 **CHAIRMAN CARTER:** Ordinarily I would agree with you,
11 Commissioner, but I think that what we will end up having to do
12 is go down another road of establishing the procedure for
13 enforcement and codifying how we do the enforcement where this
14 gives us the enforcement. We'll have to start over at square
15 one and create a whole body of -- it will probably be a rule
16 based upon the Commission's ruling and all, but it would put us
17 in a posture to go back and do a process that will give us the
18 authority for enforcing, for the enforcement. That's what
19 gives me heartburn.

20 Other than that, I agree with you. But I do believe
21 that this gives us the authority -- when you have got a
22 voluntary system here where they go by these standards, but we
23 do have a provision that allows us to enforce violations. If
24 there is a violation of that standard, we can force that on
25 behalf of the consumers.

1 **MS. COWDERY:** Commissioner Carter.

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

3 **MS. COWDERY:** Commissioner McMurrian, what I wanted
4 to add is under Chapter 120, the Administrative Procedure Act,
5 if we want to enforce a standard uniformly across the industry,
6 we need to have it in a rule. It's required to have it in a
7 rule.

8 Rulemaking is mandatory if you are going to have
9 something. If we think the ANSI standard is appropriate, for
10 instance, and we want to be able to enforce that across the
11 board, it's a mandatory thing to do rulemaking. And then the
12 question is do you want to have that or not, and that's up to
13 the Commission. But if you're going to have that approach,
14 then it does need to be in a rule.

15 **CHAIRMAN CARTER:** Well, I think we need to have a
16 basis for enforcement, and this gives us that basis for that.

17 **COMMISSIONER McMURRIAN:** Mr. Chairman, I see what you
18 are saying, and I understand what Ms. Cowdery says about
19 needing a rule if we are going have some kind of standard
20 enforcement. I guess what I'm saying is I don't think we need
21 standard enforcement, so I would suggest that we don't need the
22 rule. And that when a complaint arises, I believe -- and,
23 again, I'm not an attorney, so I will defer, and this is one of
24 those places where we can just agree to disagree, but I believe
25 that if a complaint arose, according to the statute, that we

1 would have an ability to look into that complaint.

2 Now, we wouldn't have a standard to compare it to or
3 a rule that says this is what that firm standard should be in
4 all cases, and say whether or not they have complied with the
5 rule if it wasn't there. But I do think that we would have the
6 ability to look at it and weigh the information we have and
7 make a decision about whether we thought that it met the
8 requirements of the statute.

9 **CHAIRMAN CARTER:** My disagreement with you,
10 Commissioner, is we would have to start all over, and we have a
11 basis for this, you are talking about a basis for these
12 standards. And in order to enforce a violation of these
13 standards you have to have it codified in the rule, and that
14 gives us the authority to do that. Otherwise we have got --
15 pardon the expression, but we have got Dodge City. And I think
16 this is significant.

17 And as I said, ordinarily I would agree with you, but
18 on this one I disagree, because I think we need this for
19 enforcement. In order to enforce a provision, you have got to
20 have some authority to do that and this rule gives us the
21 authority to enforce it.

22 Commissioner Argenziano.

23 **COMMISSIONER ARGENZIANO:** I agree with that,
24 especially since it is stated in the ANSI standards that you
25 have to have it codified by rule in order for it to be

1 enforceable. I have the same concern.

2 **CHAIRMAN CARTER:** Anything further on Issue 25-4.072?
3 Commissioner McMurrin, you're recognized.

4 **COMMISSIONER McMURRIAN:** Okay. And the next one is
5 answering time.

6 **CHAIRMAN CARTER:** It's 25-4.073, Commissioners.

7 **COMMISSIONER McMURRIAN:** Right. And I recall that
8 staff recommended the 90 seconds up from -- relax the standards
9 somewhat from where they had been. And I realize there's still
10 some controversy at 120 seconds and including the average speed
11 of answer. I'm not sure exactly what I would recommend there,
12 but I think I will have some difference of opinion in that I
13 don't really have concern about the IVRU answer time being
14 included in the calculation. But perhaps one method of
15 compromise is to somehow exclude that provision, but look at
16 increasing the number of seconds to 120. Because I think that
17 given -- and some of the information in the -- I think it was a
18 statement in the rec that suggested that other industries, you
19 know, do have some longer answer times, and that, in my
20 opinion, a couple of minutes doesn't seem excessive.

21 I don't like to wait either, but it seems like that
22 some relaxing there, again, given my overall thoughts on
23 relaxing some of these regulations. I realize we may have some
24 disagreement there also. I am just trying to cover --

25 **CHAIRMAN CARTER:** So you are saying that you are

1 recommending staff's position on 25-4.073?

2 **COMMISSIONER McMURRIAN:** No, I'm not recommending.
3 And I'm not trying to make a motion here, I am just trying to
4 let --

5 **CHAIRMAN CARTER:** I'm sorry, Commissioner, I'm just
6 trying to follow you on that. What are you saying about
7 25-4.073, the answering time?

8 **COMMISSIONER McMURRIAN:** I think I'm saying that --
9 I'm trying to find the right way to say it.

10 **CHAIRMAN CARTER:** It has been a long day.

11 **COMMISSIONER McMURRIAN:** I would suggest going beyond
12 90 seconds to 120 seconds, but to leave the rest of the
13 language as staff has proposed. In other words, not including
14 the average speed of answer, IVRU answer time where it averages
15 at one second. But, again, that is just my thought. I realize
16 that we have had plenty of discussion on that and Commissioners
17 already know probably where they want to go on that.

18 **CHAIRMAN CARTER:** So you're saying the only change
19 would be the 120 seconds and deleting the rest, is that -- am I
20 close?

21 **COMMISSIONER McMURRIAN:** Well, it's not deleting the
22 rest. I guess I'm looking at how staff has characterized what
23 some of the parties put forward, or the joint petitioners put
24 forth about using the average speed of answer established at
25 120 seconds.

1 **CHAIRMAN CARTER:** Okay.

2 **COMMISSIONER McMURRIAN:** And that they want the call
3 that is completely handled by the IVRU to count as a one second
4 answered call, and we had some discussion about that earlier,
5 and Mr. Moses helped me with that. And I understand what they
6 are saying there, because frankly that's exceedingly
7 complicated.

8 I think in order to just relax the standards
9 somewhat, in my opinion, you could just move the 90 second
10 answer time that is proposed by staff to 120 seconds. And that
11 that would give some more flexibility. I know that this was a
12 particular concern for a lot of the smaller ILECs, if I recall
13 correctly, in some of the workshops. And I think it definitely
14 contributes, and consistent with some of the comments that Mr.
15 McCabe made in trying to reduce their costs, because frankly
16 that is about all that they can do in order to try to stay
17 competitive.

18 **CHAIRMAN CARTER:** I understand that now.

19 Commissioner Skop.

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

21 At some appropriate time with respect to that
22 proposed modification -- again, I recognize it is not a motion,
23 but, again, I think trying to be practical, because anytime I
24 pick up the phone I like to get somebody on the other end of
25 the line in a timely manner. I don't know what the right

1 number is, but it would be interesting to hear OPC or the
2 position of the parties, whether they are still adamant about
3 that at the appropriate point in time.

4 **CHAIRMAN CARTER:** Commissioner Argenziano.

5 **COMMISSIONER ARGENZIANO:** Well, I just seem to
6 remember hearing several times that we weren't changing
7 standards, and we are. We are changing quality, and that is
8 definitely a changing of quality, and I understand the
9 companies want that, but then don't tell me you're not changing
10 the standards because you are. And I just -- I just don't
11 agree with it, I'm sorry. I just see it as a setback, and
12 there is no other way to explain it, but that you are reducing
13 the quality standards.

14 And, you know, perhaps I think the company should be
15 somehow -- it's very favorable to get -- even if you get
16 automation that solves your problem quickly, I like that. I
17 think that's a good thing. But then, again, just simply
18 because you get automation, what if you are on automation for
19 20 minutes? You know, that doesn't get to the heart of the
20 problem.

21 So I just have listened to the company say that they
22 weren't going to reduce standards, and every time I turn around
23 we are. So I just respectfully disagree. I think it is a
24 reduction in quality. And, you know, I don't know, I just
25 think that probably a lot of the companies' angst and their

1 need for some of this, I understand. It is probably better
2 directed at the policymakers than at the PSC, because it is an
3 uneven playing field, and I recognize that.

4 I thank you, Mr. Chairman.

5 **CHAIRMAN CARTER:** Commissioner Skop.

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

7 And I appreciate that. I wasn't suggesting that I
8 support that one way or another, and I had heard the same thing
9 previously. You know, some things may have wiggle room. But
10 the point -- and I would agree with Commissioner Argenziano
11 that it's probably best left to the policymakers. I do think
12 there may be a valid point for the smaller ILECs, though, that
13 don't have sufficient staffing. But then, again, they probably
14 don't have the vast numbers of customers, either, so it could
15 go either way. Thank you.

16 **CHAIRMAN CARTER:** Any further questions on 25-4.073,
17 Commissioners? Okay.

18 Commissioner McMurrian.

19 **COMMISSIONER McMURRIAN:** Thank you. On the next
20 four, I don't believe there is remaining controversy.

21 **CHAIRMAN CARTER:** Which would be 25-4.074, 25-4.083,
22 25-4.107, and 25-4.108.

23 Commissioner McMurrian.

24 **COMMISSIONER McMURRIAN:** Thank you.

25 On the next two, I do have some questions. We'll

1 start with 25-4.109, customer deposits. And I had some
2 specific -- that rule starts on Page 66. And I guess when I
3 was reading through some of the language -- this is for staff.
4 When I was reading through some of the language of the rule,
5 some of it seems difficult to determine and just very detailed.
6 And I realize that what you had before you was a proposal to
7 put it all in the tariff, and essentially not have the rule,
8 or, you know, go through and look at it and determine using
9 your judgment what needed to be there for adequate customer
10 protection. And I realize those balances that you made.

11 But when I read through some of these specifics, some
12 of it in particular, and I guess I will go to the one that
13 concerned me the most, and I felt like, in a sense, was worse
14 for the customer than perhaps would be if it were left to
15 tariff. And it is on Page 68 on refund of deposit. And it
16 talks about after a customer has established the satisfactory
17 payment record for 23 months, the company shall refund the
18 customer's deposit provided that they have not in the preceding
19 year done one of the next four things. And it seems very
20 prescriptive for something that I would think that a company
21 would still have in their tariffs these kind of policies. And
22 in my mind their policies could even be more beneficial to the
23 customer than what's here.

24 And I'll go to Part A. If a customer -- the way I
25 read this, if a customer has not in the preceding 12 months

1 made more than one late payment, then the company would refund
2 the money. But what if a company wanted to refund the money
3 despite the fact that a customer had made two late payments?
4 In other words, that the company has some discretion in dealing
5 with the customer. That the customer has some particular issue
6 going on in their lives, they have made two late payments, but
7 the company still feels like the customer deposit could be
8 refunded. And it seems like to me they should have that kind
9 of flexibility. Now, I'm not saying that that arises, but
10 under the strict reading of the rule, I don't think they have
11 the ability.

12 **MR. MAILHOT:** I don't believe the rule in any way
13 requires them to collect a customer deposit. Now, maybe I'm
14 mistaken.

15 **COMMISSIONER McMURRIAN:** But I guess what I am going
16 to, Dale, is if they collect it, how do they refund it?

17 **MR. MAILHOT:** It is totally optional.

18 **COMMISSIONER McMURRIAN:** I mean, because by leaving
19 this here, if they collect one, they would have to refund it in
20 this manner. And I don't think that they could refund in any
21 manner other than what is listed here unless they sought a rule
22 waiver. I guess that's what I'm getting to.

23 And I guess what I'm saying, in an effort to provide
24 customer protections in here, perhaps we are going further than
25 we really -- I think we are better off to leave them some

1 flexibility. And I actually think some of that could be better
2 for the customer. I don't believe I have ever made two late
3 payments in a 12-month period, but I can say I have been pretty
4 frazzled at times during certain years, and it could happen.
5 And I would think that I would want my service provider to have
6 the flexibility to deal with me on that and not have to say
7 that because of this rule -- and I realize that there is
8 protections both ways. And this is also to make sure that
9 other customers don't somehow -- that the other customers are
10 protected from customers who may not have adequate payment
11 histories.

12 But, again, I think that flexibility could be
13 provided if we allowed them to provide this kind of information
14 in tariffs. And, again, this is just an example. So I wanted
15 to throw that out there. I mean, do you read it like I do that
16 there is not the flexibility for a company to refund a deposit
17 if there were more than one late payment of a bill? And I
18 don't mean this to be a gotcha. I know we haven't talked about
19 this.

20 **CHAIRMAN CARTER:** Commissioner Argenziano.

21 **COMMISSIONER ARGENZIANO:** I read it as if you didn't
22 have that language in there you don't have to return the
23 deposit unless -- I mean, basically the way I'm looking at it,
24 it says made more than one late payment. Of course, there is
25 other components of that. There is BCG, but made more than one

1 late payment of a bill in order for the company to send back
2 that deposit. So if you have made two late payments, you may
3 not get your deposit back. But it works the other way also.
4 It could be what if you only made one late payment. If we
5 didn't have that language in there, then you're not going to
6 get your money back after one late payment. So that's the way
7 I read it.

8 **COMMISSIONER McMURRIAN:** I do see what you are
9 saying, but I thought, and I'll have to look back at the
10 statute, but I thought that refunds of deposits were required
11 regardless. But maybe not. I assume that you can't take a
12 deposit that is held in the event that you might become a
13 credit risk or something at some point and that they hold on to
14 it to protect the remaining body of ratepayers, but it is still
15 that customer's money, so I assumed that whether we have this
16 rule or not that a company that collects it would have to
17 refund it after certain conditions were met, unless there were
18 certain -- unless there was nonpayment for a certain amount of
19 time that negated that amount of deposit.

20 **MS. SALAK:** Are you saying if we didn't have the rule
21 they would have to refund it?

22 **COMMISSIONER McMURRIAN:** If we didn't have the rule,
23 would they still be required to refund a deposit. It just
24 wouldn't say how they would have to refund it, but wouldn't the
25 statute still require them to refund that customer deposit?

1 **MS. SALAK:** Well, not that I'm aware of. I would
2 have to research that, but not that I am aware of. But I would
3 make a comment, if we don't make them do a deposit, they can
4 give it back at any time. And I agree with Commissioner
5 Argenziano, we're just saying, however, if you've got their
6 money, then you have got to give it back now unless you have
7 had a little problem with them, and then you can keep it for a
8 while longer.

9 **MR. GREER:** Chairman, may I?

10 **CHAIRMAN CARTER:** Ever so briefly.

11 **MR. GREER:** Okay.

12 Part of the biggest problem we have is trying to
13 streamline with our 22 states what the deposit practice will be
14 on collecting a deposit. I know you have different verbiage in
15 here. It's two times X. You know, we would like to have that
16 ability to make sure that we are able to do that consistently.

17 Now, what I'm hearing you talk about is the refunding
18 of that deposit. If the Commission wants to, and I haven't
19 talked with anybody else, but it seems to me that if that is
20 your concern, then give the flexibility on the front end to
21 collect the deposit in whatever the practice is within our
22 tariffs, and then your procedures on refund don't give me a
23 great deal of heartburn. It's kind of a balance between the
24 two.

25 I mean, our main effort to is try to develop a

1 consistent deposit practice across our companies, states. And,
2 you know, refunds are going to be different because generally
3 statutes have a percent on deposits that you have got to pay.
4 And, you know, I think there may be some issues associated like
5 that.

6 **COMMISSIONER ARGENZIANO:** Mr. Chair.

7 **CHAIRMAN CARTER:** Commissioner Argenziano.

8 **COMMISSIONER ARGENZIANO:** I think, Commissioner
9 McMurrin, please correct me if I'm wrong, I think what you
10 were concerned with was when it read that they wouldn't be able
11 to give back the deposit any sooner. And what I was saying is
12 that this was to make sure that the deposit is given back,
13 unless you are late more than twice and these other things
14 there. So I don't think that that was the Commissioner's
15 concern. I think it was --

16 **MR. GREER:** Well, the rule also is a little
17 prescriptive on the front end as far as how much of the deposit
18 you can collect.

19 **COMMISSIONER ARGENZIANO:** Right, right.

20 **COMMISSIONER McMURRIAN:** And so what I hear you
21 saying, Stan, is that if we weren't prescriptive about how a
22 customer deposit was collected, that there may not be concerns.
23 Because I do think that if you collect a deposit, that that is
24 still the customer's money unless there's some reason that they
25 don't pay you, in which case then it arguably becomes your

1 money to pay their bill.

2 **MR. GREER:** Absolutely.

3 **COMMISSIONER McMURRIAN:** So I do think there needs to
4 be some way to make sure that customer deposits, if they are
5 collected, get refunded. Now, if there's nothing in the
6 statute or anything that requires that, then I think that we
7 should retain some kind of language, as Commissioner Argenziano
8 was saying, to make sure customer deposits are refunded.
9 Although I doubt that would be a problem.

10 **MR. GREER:** And I don't see a problem with the
11 staff's proposed language from 4 down, because I think that is
12 generally the refund mechanism of the rule.

13 **COMMISSIONER McMURRIAN:** Well, I will say to that
14 point, too, that under 1(a) through (d), when I read through
15 some of these requirements about how customers prove that they
16 are creditworthy, it did seem very prescriptive, and it does
17 seem like that would be something that would be best left up to
18 the utility in collecting the deposit in that. Or not the
19 utility, the company, in that the company sort of decides --
20 well, let me just point at one specific one.

21 On this language in Part B about the applicant
22 service -- the applicant for service furnishing a satisfactory
23 guarantor to secure payment, et cetera, et cetera, their
24 liability shall be determined. When a residential customer
25 whose payment of bills is secured by the guarantor meets

1 Subsection 4, they shall only be liable for bills contracted at
2 the service address. That seems like a lot of detail for us to
3 tell them how to collect it.

4 Now, I agree that if a customer pays a cash deposit
5 that that should prove their credit risk. And Part D also
6 seems reasonable. And I'm not trying to say exactly what their
7 customer deposit practice should be. I guess what I'm saying
8 is perhaps that should be left up to them to put in a tariff
9 somehow, so that we are aware of how that is done, but that we
10 don't need to tell them this kind of detail about how to
11 collect a customer deposit.

12 But I do agree with Commissioner Argenziano, we need
13 to make sure if there is no other protection that once it's
14 collected that there is a way for a customer to get it back.

15 **MS. SALAK:** I'm not aware of any statutes that tell
16 them when to give the customer deposit back at all.

17 **MS. CLARK:** Okay.

18 **CHAIRMAN CARTER:** Ms. Perry.

19 **MS. PERRY:** You also want to make sure if there is a
20 deposit being collected that it is being collected equally from
21 the criteria that is met from all customers. Not more deposit
22 from somebody who is down a little bit on their luck and no
23 deposit for somebody you know that lives in the good side of
24 town. And that might be why it's so spelled out, and I'm
25 speculating. But I know that there has been controversy in

1 regards to that in the past, as the employee on the job, and I
2 know that something else that came into controversy, I think,
3 during the '80s was interest should be paid on deposits. They
4 weren't paying them at one time.

5 **CHAIRMAN CARTER:** Commissioner Skop.

6 **COMMISSIONER SKOP:** Briefly on 4.109(1), Provision B,
7 and Provision D, as Commissioner McMurrin duly pointed out, I
8 mean, I could understand that for a commercial customer, but
9 for residential it seems to be somewhat overkill. I don't know
10 how that found its way in there in the first place, but that
11 might be worthy of striking at least those two provisions.
12 But, like I said, I am just listening to the discussion.

13 Thanks.

14 **CHAIRMAN CARTER:** Commissioner McMurrin.

15 **COMMISSIONER McMURRIAN:** I appreciate that. And I
16 recognize that it's a list of how a customer could establish
17 credit. So even if they are burdensome, that if a customer
18 were to go through it they could. But I guess my overall point
19 is I think the company will be able to determine how to come up
20 with some kind of standards to put in their tariff that gives
21 people an idea of what they need to do to meet that credit
22 without us having to dictate exactly how that policy is laid
23 out.

24 Now, to Ms. Perry's point about the interest, that is
25 included in the part beyond Section 4 on the refund of

1 deposits. So I think if we retain the part about the refund,
2 you would retain the part about the interest being paid on the
3 deposit.

4 But, again, I guess I go back to it seems like some
5 of this is just overly prescriptive, given the environment we
6 are in. And that perhaps we should afford some flexibility for
7 companies who -- and most of them, or at least the larger ones
8 do operate in several areas to come up with something and then
9 have it on tariffs so that customers can be aware if they need
10 to know what that is without us having to prescribe it in the
11 rule.

12 **CHAIRMAN CARTER:** Commissioners, any further comments
13 on 25-4.109?

14 Commissioner McMurrian.

15 **COMMISSIONER McMURRIAN:** Thank you. I'm trying to
16 find where .110 begins.

17 **CHAIRMAN CARTER:** 25-4.110?

18 **COMMISSIONER McMURRIAN:** Yes. You know, this
19 section, again, the overall comment that it seems overly
20 prescriptive. I think that I see that the ILECs have proposed
21 to just reference the truth in billing requirements. I
22 recognize that staff has said that, you know, some of the
23 requirements that we have in our rules go beyond those, and so
24 those wouldn't be in rules anymore. But I had some of the same
25 impression like on the last one that it just seemed overly

1 prescriptive. And we have heard comments from customers before
2 about bills being overly complicated and even the requirement
3 to have a bill that's broken down once a year, there is just a
4 lot of detail here that is required to be listed, and I don't
5 know if that is not something that could just be provided --
6 you know, if a customer wanted that kind of breakdown that
7 there is some way to request it, but that it wouldn't be
8 required once a year and exactly listed what should be on every
9 bill.

10 **CHAIRMAN CARTER:** Commissioner Argenziano.

11 **COMMISSIONER ARGENZIANO:** A question to staff. On
12 Page 67, starting on Line 10, under amount of deposit where it
13 indicates that what the -- first of all, it indicates that the
14 initial -- the amount of the initial required deposit shall not
15 exceed an amount equal to the charge for one month's local
16 exchange service plus two months estimate toll service provided
17 or billed by the LEC. If after 90-days service, the actual
18 deposit is found to be greater than the amount equal to one
19 month's local service plus two months actual average toll
20 service provided by or billed by the LEC, the company shall
21 upon demand of the subscriber to the company promptly refund
22 the difference.

23 How would the subscriber know if we didn't have the
24 changes proposed? How would that -- how would the subscriber
25 ever know that they have the right to get that money back up

1 front within the 90 days or after the 90 days?

2 **MR. MAILHOT:** If it was not in the rule, if this
3 Paragraph 2 did not exist, then the customer would not have a
4 right to a refund at that point.

5 **COMMISSIONER ARGENZIANO:** And if we're striking
6 things, we need to be careful, because I would think that that
7 is important for a customer to know. I would want to know that
8 I have the right to get that money back within 90 days. It's
9 better in my pocket than somebody else's, if I don't exceed
10 that amount.

11 So if we are going to go down that road, I would
12 rather not rush into making changes that I don't know the true
13 ramifications of, and work on maybe making that language in
14 that section, or in those sections less prescriptive, but yet
15 not take away things that I'm not sure if that's what we are
16 trying to do, that I haven't had time to digest, Mr. Chair.
17 And I believe staff is recommending maintaining the language in
18 the customer deposits current residential protections that are
19 currently --

20 **MR. MAILHOT:** That's correct. Our only recommended
21 change -- right now the customer deposit rule applies to all
22 customers. We are just recommending that it only apply to
23 residential, so business is on their own.

24 **COMMISSIONER ARGENZIANO:** Right. So then if we were
25 to not maintain the current language that we have, something

1 like I just said the customer would never know about. I am
2 opposed to that. I would like to make things less
3 prescriptive, and maybe look into that, but not in five minutes
4 and now.

5 **CHAIRMAN CARTER:** The recommendation for staff is
6 that it would just apply to residential customers.

7 **MR. MAILHOT:** Correct, the entire pool.

8 **CHAIRMAN CARTER:** It will stay as it is.

9 **COMMISSIONER ARGENZIANO:** But that is if it stayed
10 the way it is. I believe, didn't -- wasn't there a discussion
11 about changing all of this? Mr. Chair, that's what
12 Commissioner McMurrian was talking about, changing it,
13 eliminating it, and I'm not in favor of that without properly
14 reading through.

15 I'm in favor of making things a little less
16 prescriptive, but not in five or ten minutes. And that is just
17 one example I have come up with in looking at that, that if we
18 removed and did what Commissioner McMurrian had indicated, a
19 customer would never know they had the ability to get that
20 money back if it met that language.

21 **CHAIRMAN CARTER:** Okay.

22 **COMMISSIONER McMURRIAN:** Yes. And given the
23 discussion we had, I was suggesting that we would delete the
24 part up until the refund of deposit, which would be Section 4,
25 and then leave the rest of staff's changes as is. But I

1 understand what Commissioner Argenziano is saying. That's a
2 good point. I guess what I was saying was if that information
3 is in the tariffs, and I think that that's -- that's what, I
4 think, they are proposing is that the information about how the
5 deposit would be collected would -- it would be up to them and
6 then they would put it in the tariff so that someone could find
7 what that policy is. But if you are saying that you want to be
8 able to say that it needs to be provided in that manner then,
9 yes, I would think it would need to be in the rule. But I'm
10 saying I don't think we need to go there.

11 **MS. SALAK:** Did you want to -- so there would be no
12 limitation on the amount of the deposit, because you were
13 taking it out till 4 you said, at least that is what I
14 understood. So this gives a cap on how much it can be, so that
15 would be part of --

16 **COMMISSIONER McMURRIAN:** Well, I guess to be -- and
17 maybe I'm off base, so correct me if I'm wrong, but I guess
18 when I think about deposits, it is to protect the other
19 customers, but it also provides some protection to the utility
20 that if someone doesn't pay. And so in my mind, this one
21 doesn't provide as much -- consumers don't have as much at
22 stake for that not to be spelled out there as long as there is
23 some kind of customer deposit policy.

24 Am I off base? It seems like if they have a customer
25 deposit policy that is set out in the tariffs and that someone

1 can see, and that, you know, they know what is required of
2 them, then is it that much different that it is in the rule or
3 in the tariff.

4 **MS. SALAK:** No, no, it is just that this sets a cap
5 on it of the one month.

6 **COMMISSIONER McMURRIAN:** Oh, I see what you're
7 saying. Okay.

8 **MS. SALAK:** It is just the dollar amount. And if you
9 just left it up to the tariff, then the company would decide
10 what the cap would be, if there was a cap.

11 **COMMISSIONER McMURRIAN:** And maybe that goes to
12 Ms. Perry's point earlier, too. Okay.

13 **CHAIRMAN CARTER:** Okay. 25-4.110.
14 Commissioner McMurrrian.

15 **COMMISSIONER McMURRIAN:** I guess I was saying in
16 general that I think that this is very prescriptive, as well.

17 **CHAIRMAN CARTER:** And staff said that our rule is a
18 little more stringent than the truth in billing, because the
19 truth in billing was looking more as a minimum standard, and we
20 wanted to go beyond that for consumer protection.

21 **COMMISSIONER McMURRIAN:** Yes. And, again, it's sort
22 of, as you read the whole thing, one thing in particular that
23 struck me as not really necessary. I mean, this is not -- it's
24 not critical, but at the bottom of Page 71 in the rule language
25 there is a -- staff, I think, did make a concession about not

1 requiring bill-stuffers or bill inserts anymore, and also
2 allowing a bill message to be able to allow compliance, and I
3 think that probably does save the companies a lot of costs.

4 It struck me as odd to have the bill message or bill
5 insert being approved by the Division of Regulatory Compliance.
6 Not that I have any --

7 **MS. SALAK:** It's actually by statute. It's supposed
8 to be approved by statute.

9 **COMMISSIONER McMURRIAN:** Oh, that is by statute?

10 **MS. SALAK:** It is supposed to be approved by the
11 Commission.

12 **COMMISSIONER McMURRIAN:** Well, I guess we can have it
13 come to us. Well, I apologize for that. If we have to do it
14 by statute, then maybe no one from the Legislature is
15 listening.

16 **CHAIRMAN CARTER:** Okay. 25-4.185. And you said that
17 that was not one you had a question about.

18 **COMMISSIONER McMURRIAN:** No.

19 **CHAIRMAN CARTER:** Okay. All righty. Let's do this,
20 Commissioners, let's go back to the top. And I guess what we
21 can do, Commissioners, for judicial economy, is we'll look at
22 it in groups. There was no controversy on the first three,
23 which is 25-4.002, 25-4.023, and 25-4.046.

24 Commissioner Edgar.

25 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

1 And if you don't want to do it this way, that's fine,
2 but I would like to maybe make a suggestion and see if it works
3 for you.

4 **CHAIRMAN CARTER:** Oh, I'm open to suggestions.

5 **COMMISSIONER EDGAR:** Thank you.

6 I'm glad for the further discussion that we have had,
7 and actually it has had an impact on a few of the fine points
8 in my own thinking, so I appreciate that. And I'm glad we
9 spent the time to work our way through all of it, and I
10 appreciate everyone's patience as we do that.

11 I would be willing, and I hope able, to try to, as I
12 said earlier, craft a motion trying to take into account all
13 that we have heard today with a few very brief comments.

14 **CHAIRMAN CARTER:** Bless your heart.

15 **COMMISSIONER EDGAR:** And see if we can come close to
16 consensus. And if I'm way off, and we aren't close to
17 consensus, it can either go down, or I would be glad to
18 withdraw it. But I'm willing to at least make a stab at it.

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

20 **COMMISSIONER EDGAR:** Thank you.

21 Then, very briefly, my comments on all of this is
22 that many of you who appear before us on a regular or irregular
23 basis have heard me say before that when we are looking at rule
24 language, I always appreciate interested parties bringing in
25 specific suggested rule language for discussion, and in this

1 case I certainly am thankful to all the parties for doing that.

2 I also think it is important that we review our rules
3 on, again, an irregular/regular basis in all policy areas, and
4 so I think that this, more than exercise, but this activity is
5 useful and timely. I also think it's important that our rules
6 stay current, to the best of our ability, with some
7 governmental and regulatory lag, which is probably a good
8 thing. That we stay, of course, current with the statutes, but
9 also with changes in technology and the marketplace to the best
10 of our ability. And I appreciate all the parties with all the
11 work that they have done on some compromise language.

12 As an economic regulator, I believe in trying to
13 reduce regulatory burden, and encourage a robust economic
14 climate within our statutory jurisdiction, but I also believe
15 strongly in providing protection to all consumer groups,
16 especially those most vulnerable.

17 And so with just those overarching comments,
18 realizing that we are at the rule proposal stage of the
19 multi-step rulemaking process, my motion will be -- and I'm
20 going to, for my purposes, work off the spreadsheet labeled
21 "Detailed Comparison Chart". And, again, an effort at trying
22 to try to put together a conglomerate consensus/compromise is
23 my goal.

24 **CHAIRMAN CARTER:** Which one is that?

25 **COMMISSIONER EDGAR:** It says Detailed Comparison

1 Chart. Mr. Chairman, do you have that? I think this will be
2 easy.

3 My motion at this time then, open for discussion per
4 the Chair's direction, is to adopt the staff recommendation
5 with a few very specific exceptions. And the first of those
6 would be -- and so with that staff recommendation, that would
7 include the repeal of the first of the two rules that are
8 recommended for repeal in Issue 1. Then on Rule
9 4.066, Availability of Residential Service, which we have
10 discussed at great deal today, to adopt the staff
11 recommendation on that with the exception of not increasing the
12 installation time from three day to five days. In other words,
13 I would propose agreeing with the staff recommendation as to
14 the changes in the reporting requirements, but not the increase
15 in installation time.

16 And let me move on. I can do this very quickly, and
17 I hope clearly.

18 **CHAIRMAN CARTER:** Okay.

19 **COMMISSIONER EDGAR:** Then Rule 4.067, the CIAC, I
20 would include an exception to the staff recommendation on that
21 that we would repeal the rule instead of amending.

22 That on the next page in this document, and the next
23 rule, 4.070, customer trouble reports, that we would adopt the
24 staff recommendation with the exception of Item 1 under staff's
25 proposed changes.

1 In other words, not combine the out-of-service and
2 service-affecting troubles into one standard, but adopting the
3 changes to the reporting requirements, and this would include
4 not having the limitation to basic service. In other words,
5 going with the staff recommendation on that issue, as well.

6 **CHAIRMAN CARTER:** That was Commissioner Argenziano's
7 24-hour --

8 **COMMISSIONER EDGAR:** Yes, sir.

9 **CHAIRMAN CARTER:** Okay, good. I'm with you.

10 **COMMISSIONER EDGAR:** Yes. And then that is my
11 attempt to try to address the issues and concerns expressed by
12 Commissioner Argenziano, Charlie Beck, and others.

13 **MS. SALAK:** I'm sorry, Commissioner, may I just ask a
14 question?

15 **CHAIRMAN CARTER:** No, no questions.

16 **COMMISSIONER EDGAR:** I'll try to answer it. I was on
17 a roll.

18 **MS. SALAK:** You are, you definitely are. You wanted
19 to break out out-of-service and service-affecting, is what I
20 understood.

21 **COMMISSIONER EDGAR:** I wanted on that -- that issue
22 included leave the rule as is on that point.

23 **MS. SALAK:** Thank you.

24 **COMMISSIONER EDGAR:** Okay. With no amendment. And I
25 could answer it. And then contained within that same rule --

1 **CHAIRMAN CARTER:** Where are we now?

2 **COMMISSIONER EDGAR:** On Page 4 of this document,
3 Section 3, and this addresses the percentage of time that there
4 was some discussion about the staff is recommending 95 percent
5 of the time within 40 hours. I'm going to propose 90. That is
6 a slight change, and it is not -- my proposal there of 90
7 percent instead of 95, I fully admit is not based on anything
8 other than trying to listen to and find a compromise from some
9 of the discussions that we have had.

10 **CHAIRMAN CARTER:** That makes sense.

11 **COMMISSIONER EDGAR:** And I think -- let me just check
12 my notes, Mr. Chairman.

13 **CHAIRMAN CARTER:** That was it. Remember, staff was
14 at 80 -- no, wait a minute. I have it backwards, don't I?

15 **COMMISSIONER ARGENZIANO:** What happens with the one
16 second?

17 **COMMISSIONER EDGAR:** Commissioner Argenziano, my
18 understanding is that that is addressed in a later rule, 4.073,
19 and my motion would include going with the staff recommendation
20 on that rule in its entirety, which I think, and my intent is
21 to take into account and address the concerns that you have --
22 accommodate and address the concerns that you have raised.

23 **CHAIRMAN CARTER:** One second. Commissioner Skop.

24 **COMMISSIONER EDGAR:** And I'm done unless I need to go
25 further.

1 **CHAIRMAN CARTER:** Commissioner Skop.

2 **COMMISSIONER SKOP:** Mr. Chairman, just a quick point
3 of clarification to Commissioner Edgar with respect to the
4 proposed change on Page 4 of 15 on, I think, Line Item 3.
5 And, again, I'm struggling, like Chairman Carter, with the
6 small print, but service objectives or service standard. I
7 think that you mentioned potentially modifying the 95 percent
8 to 90. Is the hour also 48, or would that be 24 in that line
9 item?

10 **COMMISSIONER EDGAR:** That's a good question. And let
11 me look at my notes, if you can give me just a minute. I would
12 have left that at the 24, and I'm using as my guide for my
13 thinking on the previous page, Page 3, when it lists staff's
14 proposed changes, and I said to not adopt .1 under that.

15 **COMMISSIONER SKOP:** Yes, ma'am. I heard that, I just
16 didn't hear it on the other rule.

17 **COMMISSIONER EDGAR:** I didn't say it. (Laughter.)

18 **COMMISSIONER SKOP:** I just wanted to make sure. But
19 just one quick further point of clarification. Again, I'm not
20 doing this in any way to criticize. I thought you made a
21 brilliant motion, which I would support.

22 The question that I had pertained to the service
23 installation time on Rule 4.066, and I guess staff had
24 recommended five working days, whereas I think that you were
25 advocating in the motion to keep it three.

1 **COMMISSIONER EDGAR:** Yes.

2 **COMMISSIONER SKOP:** And I know that it is consistent
3 with not giving more relief, but I didn't hear a lot of
4 controversy associated with that specific provision, and I was
5 just wondering -- and, again, I'm fine either way, but do you
6 have some thoughts?

7 **COMMISSIONER EDGAR:** Commissioner Skop, that was my
8 effort, again, to try to address the current concerns, and
9 realizing, again, trying to hit a compromise which is either
10 brilliant or is wrong on all counts, if you know what I mean.
11 But it's my effort to try to kind of roll into and address
12 concerns.

13 But as I said a few moments ago, I'm putting this out
14 for discussion and maybe potential action. If I haven't hit
15 it, I'm open to friendly amendments, or however the Chair would
16 like to address that.

17 **COMMISSIONER SKOP:** Thank you.

18 **CHAIRMAN CARTER:** Commissioner Argenziano.

19 **COMMISSIONER ARGENZIANO:** On availability of service,
20 .066. You've changed it. You are going with the three days?

21 **COMMISSIONER EDGAR:** The three days is what I have
22 proposed.

23 **COMMISSIONER ARGENZIANO:** But still keeping -- will
24 it apply to those who are going for bundled services also?

25 **COMMISSIONER EDGAR:** It would be no change in the

1 current level of protection by the rule.

2 **COMMISSIONER ARGENZIANO:** Let me just repeat it to
3 make sure. It would not then be different for those applying
4 for bundled service. It would still be basic service with just
5 additions, but still that same quality of service that is there
6 today.

7 **COMMISSIONER EDGAR:** That is my understanding, but
8 I'm going to look to Beth to make sure --

9 **CHAIRMAN CARTER:** Yes, it is.

10 **COMMISSIONER ARGENZIANO:** And just to be sure. And
11 on .070, on the trouble reports, you're going from the 95 to 90
12 with the .4 --

13 **COMMISSIONER EDGAR:** Yes, within 24 hours.

14 **COMMISSIONER ARGENZIANO:** Within the 24 hours, I'm
15 sorry. And then the other thing was just the answering time on
16 .073, which would remain as it is currently today with the
17 staff's recommendation?

18 **COMMISSIONER EDGAR:** I would go with the
19 recommendations as proposed by staff in the agenda item before
20 us.

21 **COMMISSIONER ARGENZIANO:** So lengthening the time but
22 not incorporating the one second.

23 **COMMISSIONER EDGAR:** Correct.

24 **COMMISSIONER ARGENZIANO:** Got it. I just wanted to
25 make sure.

1 **COMMISSIONER EDGAR:** Correct. And then also the
2 repeal of the CIAC rule which seemed to kind of be the thinking
3 that I was hearing.

4 **CHAIRMAN CARTER:** Commissioners, do you guys
5 understand? That was my understanding of the motion, as well.
6 Any questions?

7 **MR. GREER:** Chairman, may I ask one question? I'm
8 sorry for doing this, but in .070 you set out the standard for
9 out-of-service of 90/24. I'm not sure what you want to do with
10 service-affecting. If you are going to leave them
11 out-of-service, service-affecting, is it going to be 90/72, is
12 it going to be 95/72?

13 **COMMISSIONER EDGAR:** And, I'm sorry, I didn't quite
14 catch the end of it. Could you ask that again?

15 **MR. GREER:** Sure. In .070 you said you didn't want
16 to combine them, if I heard you right, and so you're still
17 going to have an out-of-service and service-affecting piece.

18 For the out-of-service, you said 90/24. I assume,
19 since they're not going to be combined, the service-affecting
20 goes back to 72 versus going to 24, and what would be the
21 percentage for 72, it stays at 95 or does it go to 90?

22 **COMMISSIONER EDGAR:** And I didn't probably address
23 that, and so I appreciate the question and the clarification.
24 For consistency, I would say 72/90.

25 **CHAIRMAN CARTER:** To be consistent with what we're

1 saying.

2 **COMMISSIONER EDGAR:** But, again --

3 **CHAIRMAN CARTER:** That would be consistent,
4 Commissioners.

5 **COMMISSIONER EDGAR:** -- if there is a need or a
6 desire for further discussion, I'm open to that. And I
7 appreciate you asking the clarifying question.

8 **CHAIRMAN CARTER:** Commissioner Skop, you're
9 recognized for a second to the motion.

10 **COMMISSIONER SKOP:** Thank you, Mr. Chairman. I would
11 second the motion.

12 **CHAIRMAN CARTER:** And discussion.

13 **COMMISSIONER SKOP:** And discussion. The only --
14 again, proud to second the motion. I think it embodies the
15 lengthy discussion and well vetting that the Commission has had
16 today. I do feel that 4.066, the three to five days, again, I
17 think that to me having the protection that we received in
18 Commissioner Edgar's motion, to me the working days is not as
19 really important, so I have flexibility either way on that.
20 But I would be proud to second the motion.

21 **CHAIRMAN CARTER:** Discussion. Commissioner
22 McMurrian, discussion.

23 **COMMISSIONER McMURRIAN:** Thank you. And, first, let
24 me say to Commissioner Edgar, and actually to all of my
25 colleagues, I appreciate the great deference you all gave me in

1 affording me in asking a lot of questions, and I appreciate
2 that you have taken into account some of the concerns I have
3 raised.

4 I do think that it is beneficial for the rules to be
5 proposed for amendment. I don't, however, agree with some of
6 the details about how we propose them for amendment. I am
7 still not exactly sure, and as I thought that through I'm not
8 sure where that leaves me. But I do want to make a few
9 comments, and maybe I will come back to Ms. Helton, but
10 essentially I don't agree with every part of the proposal, but
11 I do think that there has been a move in a good direction and
12 in a favorable direction. And, again, I appreciate that
13 attempt for compromise.

14 And I don't mean for any of my comments to be taken
15 as a suggestion that I think that, going back to the point
16 Commissioner Argenziano made earlier, that I don't want anyone
17 to think that I have suggested that I think they are
18 anticompetitive or anything in what I'm about to say, so
19 please, I'm sure I won't be as articulate as I would like to
20 be, but, again, I don't think it is a surprise to most people
21 in this room that I have had a philosophical opinion on some of
22 these issues for quite awhile, and it has come across in
23 several dockets about the move to competition, and we have had
24 a little bit of disagreement, but I would say thankfully, for
25 the most part, I think we have been able to agree in a lot of

1 these areas.

2 And so I didn't come by my opinions about a lot of
3 these things overnight because the ILECs wanted to change their
4 rules. A lot of these things are things I have concerned about
5 for awhile. And in the same vein that Commissioner Argenziano
6 doesn't want to be labeled as anticompetitive, I don't want to
7 be labeled as anticonsumer. I'm sure that many of you might
8 see it that way, and, of course, you're entitled to your
9 opinion, but I do very much care about the service quality that
10 customers receive, I just think we are in a different time.

11 In my review of the statutes and some of the things
12 we talked about today, I think -- and similar to what staff
13 did, that we have to balance some of the different statutory
14 guides that we have in the statute. And while there is
15 definitely the overarching requirement that we protect the
16 public health, safety, and welfare, there are also definite
17 statutory references that suggest that we exercise regulatory
18 restraint in order to promote competition in certain areas.
19 And where we each draw that balance definitely would be
20 different if we were all designing it separately, so I wanted
21 to say that.

22 And, again, some of those statutory references are
23 364.014(b), (d), (e), (f), (g), (h), I believe, reference
24 things like investment, innovation, and, again, the need to
25 exercise regulatory restraint.

1 I think it's time to recognize that competition,
2 while it's not perfect competition as we talked about earlier,
3 it has been significant enough that the presence of that
4 competition has resulted in substantial line loss from several
5 of -- substantial access line loss from several of the
6 companies that we have heard from, and I think that paired with
7 the statutory references I mentioned does call for us to look
8 critically at our regulations aimed at that one industry
9 segment, and realizing that they have to compete with other
10 parts of the industry that we don't regulate and have any say
11 so over. And we have looked critically at those. And, again,
12 we feel a little differently.

13 And one other thing I wanted to say is that we have
14 recognized that we need more competition in certain areas,
15 particularly in the rural areas, and I definitely do care about
16 that, because as it's probably pretty obvious, I'm from a rural
17 area.

18 But I think one of the ways to get there faster is to
19 not tie up capital in meeting requirements that may not be as
20 important to customers as other benefits, like roll out of
21 broadband, and so I think that we might get to some of that
22 competition faster, and this is sort of a cyclical issue, if
23 there were more investment freed up to invest in broadband and
24 other advanced technologies.

25 And I think the other thing I wanted to say there was

1 that there few companies out there investing right now, and I
2 think that the telecom companies are; and that we wouldn't want
3 to do anything that may stifle that expansion at a time when
4 our economy is so desperately in need of the jobs and
5 investment that that kind of expansion would bring.

6 So I guess the last thing I would say is I don't
7 think the statutes tell us specifically how to set rules. They
8 don't set forth the percentages and the time frames, but they
9 do expect us to do it, to exercise our judgment fairly, and I
10 think we have, again, just in different ways. But that the
11 requirements themselves because of the state of the competition
12 and the need to streamline, I would just go about it in a
13 different way.

14 So I appreciate you all letting me say that. Again,
15 I don't think I need to go back through exactly where I have
16 disagreement. I think I have been pretty clear. There are
17 some areas that I don't feel as strongly about as others, even
18 though I did ask some questions and suggest some middle ground,
19 but I can if there is some way to go about that, Ms. Helton, in
20 doing that, or if the transcript is what the transcript is.

21 **MS. HELTON:** I don't think you need to do that. I
22 mean, I think you have been very clear on the record about
23 where you have some disagreement, and I think the record speaks
24 for itself.

25 **COMMISSIONER McMURRIAN:** Okay. Well, thank you.

1 So I'm not sure how to go about that, but I can't
2 support, for all of those reasons, the exact motion, but I do
3 very much appreciate you all giving me that latitude, and I
4 hope you all understand where I'm coming from.

5 **CHAIRMAN CARTER:** Thank you, Commissioner.

6 Commissioner Skop.

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

8 Philosophically, I guess some of the points that
9 Commissioner McMurrian raised are extremely valid, at least for
10 me. And I'm in full support of the motion. But I guess for
11 me, as I have articulated, this boils down pretty much to
12 statutory construction. And, again, as a Commissioner I'm
13 bound to follow the law of the State of Florida. And as
14 Commissioner Argenziano pointed out, I think that there is some
15 stretch of the definition as it is viewed by the ILECs. But,
16 again, that should not be prescriptive. Again, the
17 policymakers are the ultimate decision-makers with respect to
18 what the laws of the state of Florida are, and there is
19 certainly the avenue for legislative change if the ILECs deem
20 it to be appropriate.

21 But from the Commission's perspective we are sworn,
22 as Commissioner Edgar took the oath today for her
23 reappointment, to uphold the laws that we are here to address.
24 Yes, we have some discretion, but we don't have the ability to
25 bend the statutes unilaterally. And I think that when it comes

1 to protecting consumers, you know, we need to give our best
2 interpretation and err on the side of consumer protection as
3 opposed to trying to do something that would be better
4 addressed in a more appropriate forum. Thank you.

5 **CHAIRMAN CARTER:** Thank you. Commissioner
6 Argenziano.

7 **COMMISSIONER ARGENZIANO:** I will just second the
8 motion and want to go home and eat.

9 **CHAIRMAN CARTER:** Before we let Commissioner
10 Argenziano go home and eat, let me just say just before I call
11 for the vote, to the companies, to the parties, the AARP, the
12 Communication Workers of America, to the Office of Public
13 Counsel, to the Attorney General's Office, to our staff, and to
14 the companies, and to my colleagues, is that we have -- and it
15 is an honor and a privilege to serve with each of you, because
16 we struggle. I think everybody, you would have to be blind not
17 to see how we struggled with this. But our struggle is to,
18 first of all, ensure that we are fair to all parties. That is
19 what our struggle is. And no matter how individually we come
20 down on an issue, our struggle is to be fair to all the
21 parties. And at the end of the day we can go home and look at
22 our children and look in the mirror and say we did the right
23 thing.

24 The other thing is that -- are these rules perfect?
25 No. There are no such things as perfect rules because there

1 are no perfect people. But I think that what we did today was
2 we advanced the dialogue, we advance the discourse further
3 enough down the road to where we have a work plan, a framework
4 from which to work from to make Florida and to continue having
5 Florida to be a leader.

6 Deregulation is great, but you don't deregulate to
7 the extent to where there are no consumer protections. And I
8 think that in our struggle today and in our balancing and in
9 our discussion we did that. And with that, Commissioner --

10 **MS. KAUFMAN:** Chairman Carter --

11 **CHAIRMAN CARTER:** No, ma'am.

12 **MS. KAUFMAN:** I know you're going to start throwing
13 things at me.

14 **CHAIRMAN CARTER:** No, no, no, no.

15 **MS. KAUFMAN:** I was going to just beg your indulgence
16 to ask about my stipulation language being included.

17 **CHAIRMAN CARTER:** No. I think that the parties have
18 already said that is part of their documentation, the parties
19 in terms of the companies have said that several times, unless
20 you want to hear them say it again.

21 Mr. Hatch, do you want to say it again?

22 **MR. HATCH:** We support the stipulation (inaudible).

23 **CHAIRMAN CARTER:** Ms. Clark, do you want to say it
24 again just for old times sake?

25 **MS. CLARK:** Yes. We support putting that language in

1 the notice proposing the rules.

2 **CHAIRMAN CARTER:** I feel like I'm on an episode of
3 the Waltons. Good night, John Boy, and Poppa, and all the rest
4 of them.

5 But with that, Commissioners, we will call for the
6 vote.

7 All those in favor, let it be known by the sign of
8 aye.

9 (Simultaneous aye.)

10 **CHAIRMAN CARTER:** All those opposed like sign?
11 Show it done. We are adjourned.

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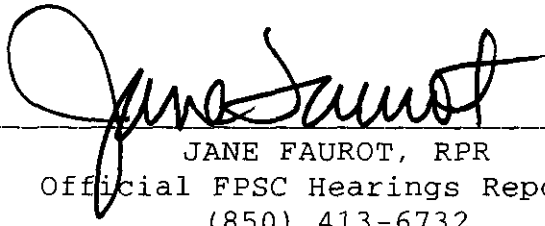
CERTIFICATE OF REPORTER

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED THIS 20th day of January, 2009.



JANE FAUROT, RPR
Official FPSC Hearings Reporter
(850) 413-6732

Partics/Staff Handout
Internal Affairs/Agenda
on 1/6/09
Item No. 3
080641-TP
080159-TP

Colleges, offices scrap land lines

Estimated 25% of businesses are phasing out desk phones in effort to save more money

USA Today 12/30/2008

Author: Greg Latshaw

(Copyright 2008)

Jennifer Wunder, an associate English professor at Georgia Gwinnett College in Lawrenceville, Ga., says she likes to keep her college-provided cellphone handy to send text messages and e-mails to students.

Wunder, 38, says her interaction with students is way up because she's reaching students on the same device they use.

"It's an incredible educational opportunity," she said.

On Jan. 7, she'll join about 75 fellow employees who will unplug their office phone and go wireless for good, said Lonnie Harvel, the school's chief information officer.

The public college is one of a growing number of businesses and organizations across the USA that are shedding traditional land lines and replacing them with cellphones or voice over Internet protocol (VOIP) technology in an effort to save money during tough economic times.

There are no national statistics available on how many of the nation's businesses have cut the cord. Lisa Pierce, vice president of Forrester Research, a marketing consulting firm in Cambridge, Mass., estimates about 25% of businesses are starting to phase out desk phones. More than 8% of employees nationwide who travel frequently have only cellphones, says Bill Hughes, an analyst with In-Stat, a marketing consulting firm in Scottsdale, Ariz.

"In the business environment, it's really a matter of a company saying, 'This will save us money,' " Hughes said. Robert Rosenberg, president of The Insight Research Corp. in Boonton, N.J., said U.S. businesses lag behind Europe and Asia in going wireless because major cellular carriers, such as AT&T and Verizon, are also earning money by providing land lines to businesses -- an \$81.4 billion industry in 2008, he said.

Rosenberg said businesses nationwide spent \$51.7 billion on wireless devices this year but in five years will double that to \$107.6 billion, overtaking their expenses for land lines.

U.S. tax law is a hurdle for employers going wireless, said Jason Goldman, counsel for telecommunications and e-commerce for the U.S. Chamber of Commerce. Since 1989, he said, the Internal Revenue Service has deemed personal use of company cellphones as extra compensation, which creates extra paperwork for both employers and employees.

080641-TP
080159-TP

Internal Affairs/Agenda
on 1/16/09
Item No. 3
Parties Handout

ILECs' Suggested Rule Changes for 01.06.09 Agenda Conference

Staff's Recommended Changes to Current Rule	Petitioners' Suggested Changes to Staff's Recommended Changes	Explanation for Petitioners Suggested Changes
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25-4.066 Availability of Service.

- (1) Each telecommunications company shall provide central office equipment and outside plant facilities designed and engineered in accordance with realistic anticipated customer demands for basic residential local telecommunications service within its certificated area in accordance with its filed tariffs, ~~or orders of the Commission, subject to its ability to secure and provide, for reasonable expense, suitable facilities and rights for construction and maintenance of such facilities.~~
- (2) Where central office and outside plant facilities are readily available, at least 90 percent of all requests for primary service ~~in any calendar month shall normally be satisfied installed in each exchange of at least 50,00 lines and quarterly in exchanges of less than 50,000 lines~~ within an interval of three five working days after receipt of application when all tariff requirements relating thereto have been complied with, except those instances where a later installation date is requested by the applicant or when broadband or video services are requested in addition to the telecommunications service, where special equipment or services are involved.
- (3) If the applicant requests an installation date beyond three five working days, the requested date shall be counted as day three five for measurement purposes.
- (4) ~~When an appointment is made in order for the company to gain access to the customer's premises, the mutually agreed upon date will be day three for measurement purposes. Failure of the customer to be present to afford the company representative entry to the premises during the appointment period shall exempt the order for measurement purposes. Whenever a company representative is unable to gain admittance to a customer's premises during the scheduled appointment period, the company representative shall leave a notice, stating the name of the company representative and the date and time the company representative was at the premises.~~
- (5) ~~Each telecommunications company shall establish as its objective the satisfaction of at least 95 percent of all applications for new service in each exchange within a 30-day maximum interval and, further, shall have as its objective the capability of furnishing service within each of its exchanges to applicants within 60 days after date of application, except those instances where a later installation date is requested by the applicant or where special equipment or services are involved.~~
- (6) ~~Whenever, for any reason, the service installation cannot be made at the time requested by the applicant or within the prescribed interval, the applicant shall be notified promptly of the delay and the reason therefor.~~
- (7) ~~Where facility additions are required to make service available,~~

25-4.066 Availability of Service.

- (1) Each telecommunications company shall provide central office equipment and outside plant facilities designed and engineered in accordance with realistic anticipated customer demands for basic residential local telecommunications service within its certificated area in accordance with its filed tariffs.
- (2) Where central office and outside plant facilities are readily available, at least 90 percent of all requests for primary basic residential local telecommunications service shall be installed within an interval of five working days after receipt of application when all tariff requirements relating thereto have been complied with, except those instances where a later installation date is requested by the applicant or when broadband or video services are requested in addition to the telecommunications service.
- (3) If the applicant for primary basic residential local telecommunications service requests an installation date beyond five working days, the requested date shall be counted as day five for measurement purposes.
- (4) Failure of the customer to afford the company representative entry to the premises during the appointment period shall exempt the order for measurement purposes.

The Petitioners continue to believe this rule is unnecessary in Florida due to the presence of competition in the telecommunications market. Nonetheless, as a compromise, the Petitioners agree to staff's recommended changes, with the modification that the rule apply only to basic residential local telecommunications service. The current rule applies only to basic local service and staff's recommended change to expand the rule to apply beyond basic service is a move in the wrong direction.

ILECs' Suggested Rule Changes for 01.06.09 Agenda Conference

Staff's Recommended Changes to Current Rule	Petitioners' Suggested Changes to Staff's Recommended Changes	Explanation for Petitioners Suggested Changes
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~~the applicant shall be further advised as to the circumstances and conditions under which service will be provided and as soon as practicable an estimated date when service will be furnished. With respect to applications aged over six months all service dates that result in a further delay due to the company's inability to meet the original estimated date of service shall be identified in the appropriate section of the report of held applications filed with the Commission and shall include an explanation of the reasons therefor.~~

~~(85) Each company shall report primary residential installation performance pursuant to Rule 25-4.0185, F.A.C., Periodic Reports; the performance of the company with respect to the availability of service requirements as outlined in Form PSC/CMP 28 (4/05), incorporated into Rule 25-4.0185, F.A.C., by reference and available from the Division of Competitive Markets and Enforcement. Each company shall explain the reasons for all service orders that are not completed within 30 calendar days.~~

(5) Each company shall report primary residential installation performance pursuant to Rule 25-4.0185, F.A.C., Periodic Reports.

ILECs' Suggested Rule Changes for 01.06.09 Agenda Conference

Staff's Recommended Changes to Current Rule	Petitioners' Suggested Changes to Staff's Recommended Changes	Explanation for Petitioners Suggested Changes
<p>25-4.067 Extension of Facilities - Contributions in Aid of Construction.</p> <p>(1) Each telecommunications company shall make reasonable extensions to its lines and service and shall include in its tariffs filed with the Commission a statement of its standard extension policy setting forth the terms and conditions under which its facilities will be extended to serve applicants for service within its certificated area.</p> <p>(12) <u>Each company's This line extension policy shall have uniform application and shall provide that the proportion of construction expense to be borne by the utility company in serving the immediate applicant shall be not less than five times the annual exchange local telecommunications service revenue of the applicants.</u></p> <p>(23) If the cost which the servicing utility must bear under subsection (2) above (or has provided in its tariff) equals or exceeds the estimated cost of the proposed extension, the utility shall construct it without cost to the subscribers initially served. If the estimated cost of the proposed extension exceeds the amount which the utility is required to bear, the excess cost may be distributed equitably among all subscribers initially served by the extension. However, No portion of construction shall be assessed to the applicant for the provision of new plant where the new plant parallels and reinforces existing plant or is constructed on or along any public road or highway and is to be used to serve subscribers in general except in those instances where the applicant requests that facilities be constructed by other than the normal serving method.</p> <p>(3) <u>The portion of construction costs paid by the subscriber company's tariffs shall provide that such excess may be paid in cash in a lump sum or as a surcharge over a period of three five years or such other lesser period as the subscriber and company may mutually agree upon.</u></p> <p>(4) <u>Line extension tariffs shall also contain provisions designed to require that all subscribers served by a line extension during the first five years after it is constructed shall pay their pro rata share of the costs assignable to them.</u></p> <p>(5) <u>No company shall be required to extend facilities for new service unless the right of way necessary for the construction of line extension is provided by the applicant or group of applicants. Where pole attachments may be made in lieu of new construction costs, the company may charge the subscriber the expense or rental charges for such attachments, provided that the applicant may elect to pay excess construction costs as though the service were provided without the use of attachments.</u></p> <p>(6) <u>Except as provided in filed tariffs, the ownership of all facilities constructed as herein provided shall be vested in the telecommunications company and no portion of the expense assessed</u></p>	<p>25-4.067 Extension of Facilities - Contributions in Aid of Construction.</p> <p>(1) <u>Each telecommunications company shall include in its tariffs filed with the Commission a statement of its standard extension policy setting forth the terms and conditions under which its facilities will be extended to serve applicants for service within its certificated area. Each company's line extension policy shall provide that the proportion of construction expense to be borne by the company in serving the immediate applicant shall be not less than five times the annual local telecommunications service revenue of the applicants.</u></p> <p>(2) No portion of construction shall be assessed to the applicant for the provision of new plant where the new plant parallels and reinforces existing plant or is constructed on or along any public road or highway and is to be used to serve subscribers in general except in those instances where the applicant requests that facilities be constructed by other than the normal serving method.</p> <p>(3) <u>The portion of construction costs paid by the subscriber may be paid in cash in a lump sum or as a surcharge over a period of three years or such other period as the subscriber and company may mutually agree upon.</u></p>	<p>The Petitioners continue to believe this rule is unnecessary in Florida due to the presence of competition in the telecommunications market. Nonetheless, as a compromise, the Petitioners agree to the retention of a rule that refers to the companies' tariffs filed with the Commission for the terms and conditions under which facilities will be extended. The Petitioners' suggested language is consistent with the expiration of the statutory "Carrier of Last Resort" obligations on January 1, 2009 under Section 364.025, F.S.</p> <p>Further, it makes little sense to have a rule dictating how line extensions must be handled when line extensions themselves are no longer required by statute. Indeed, retaining the requirements outlined in staff's recommended changes may discourage line extensions by dictating how costs are to be recovered. Further, staff's recommended language is problematic, as it refers to a line extension policy based on a revenue amount that is variable depending on what services are included in the calculation of "local telecommunications service."</p>

ILECs' Suggested Rule Changes for 01.06.09 Agenda Conference

Staff's Recommended Changes to Current Rule	Petitioners' Suggested Changes to Staff's Recommended Changes	Explanation for Petitioners' Suggested Changes
<p>against the applicant shall be refundable by the company.</p> <p>(7) Nothing in this rule shall be construed as prohibiting any utility from establishing an extension policy more favorable to customers as long as no undue discrimination is practiced between customers under the same or substantially the same circumstances and conditions.</p> <p>(48) In the event that a company and applicant are unable to agree in regard to an extension, either party may appeal to the Commission for a review.</p> <p>(5) This rule shall apply to residential service only. However, this rule shall not apply to line extensions when the applicant has requested either broadband or video service in addition to telecommunications service.</p>	<p>(4) In the event that a company and applicant are unable to agree in regard to an extension, either party may appeal to the Commission for a review.</p> <p>(5) This rule shall apply to residential service only. However, this rule shall not apply to line extensions when the applicant has requested either broadband or video service in addition to telecommunications service.</p>	

ILECs' Suggested Rule Changes for 01.06.09 Agenda Conference

Staff's Recommended Changes to Current Rule	Petitioners' Suggested Changes to Staff's Recommended Changes	Explanation for Petitioners Suggested Changes
<p>25-4.070 Customer Trouble Reports for Residential Service.</p> <p>(1) Each telecommunications company shall make all reasonable efforts to minimize the extent and duration of trouble conditions that disrupt or affect residential customer telephone service. Trouble reports will be classified as to their severity on a service interruption (synonymous with out of service or OOS) or service affecting (synonymous with non-out-of-service or non-OOS) basis. Service interruption reports shall not be downgraded to a service affecting report; however, a service affecting report shall be upgraded to a service interruption if changing trouble conditions so indicate.</p> <p>(a) Companies shall make every reasonable attempt to restore service on the same day that the interruption is reported to the serving repair center.</p> <p>(b) In the event a subscriber's service is interrupted other than by a negligent or willful act of the subscriber and it remains out of service in excess of 24 48 hours after being reported to the company, an appropriate adjustment or refund shall be made to the subscriber automatically, pursuant to Rule 25-4.110, F.A.C. (Customer Billing). Service interruption time will be computed on a continuous basis, Sundays and holidays included. Also, if the company finds that it is the customer's responsibility to correct the trouble, it must notify or attempt to notify the customer within 24 48 hours after the trouble was reported.</p> <p>(c) If service is discontinued in error by the telephone company, the service shall be restored without undue delay, and clarification made with the subscriber to verify that service is restored and in satisfactory working condition.</p> <p>(2) Sundays and Holidays:</p> <p>(a) Except for emergency service providers, such as the military, medical, police, and fire, companies are not required to provide normal repair service on Sundays. Where any repair action involves a Sunday or holiday, that period shall be excepted when computing service standards objectives, but not refunds for OOS conditions service interruptions.</p> <p>(b) Service interruptions occurring on a holiday not contiguous to Sunday will be treated as in paragraph (2)(a) of this rule. For holidays contiguous to a Sunday or another holiday, sufficient repair forces shall be scheduled so that repairs can be made if requested by a subscriber.</p> <p>(3) Service Objectives Standard: <u>Trouble reports for residential customer service shall be corrected 95 percent of the time within 48 hours.</u></p>	<p>25-4.070 Customer Trouble Reports for Residential Service.</p> <p>(1) Each telecommunications company shall make all reasonable efforts to minimize the extent and duration of <u>service interruptions and service affecting conditions</u> (collectively, "trouble conditions") that disrupt or affect <u>basic</u> residential customer telephone service.</p> <p>(a) Companies shall make every reasonable attempt to restore service on the same day that the interruption is reported to the serving repair center.</p> <p>(b) In the event a subscriber's service is interrupted other than by a negligent or willful act of the subscriber and it remains out of service in excess of 48 hours after being reported to the company, an appropriate adjustment or refund shall be made to the subscriber automatically, pursuant to Rule 25-4.110, F.A.C. (Customer Billing). Service interruption time will be computed on a continuous basis, Sundays and holidays included. Also, if the company finds that it is the customer's responsibility to correct the trouble, it must notify or attempt to notify the customer within 48 hours after the trouble was reported.</p> <p>(2) Sundays and Holidays:</p> <p>(a) Except for emergency service providers, such as the military, medical, police, and fire, companies are not required to provide normal repair service on Sundays. Where any repair action involves a Sunday or holiday, that period shall be excepted when computing service objectives standards, but not refunds for service interruptions.</p> <p>(b) Service interruptions occurring on a holiday not contiguous to Sunday will be treated as in paragraph (2)(a) of this rule. For holidays contiguous to a Sunday or another holiday, sufficient repair forces shall be scheduled so that repairs can be made if requested by a subscriber.</p> <p>(3) Service <u>Objective Standard</u>: <u>Trouble reports for trouble conditions for basic residential customer service shall be corrected 8095 percent of the time within 48 hours. For companies that do not have systems enabling them to report results on an automated basis according to service type, performance will be measured and</u></p>	<p>The Petitioners continue to believe this rule is unnecessary in Florida due to the presence of competition in the telecommunications market. Nonetheless, as a compromise, the Petitioners propose a rule that applies to basic residential customer service, that requires trouble conditions be corrected 80% of the time within 48 hours and that retains this measure as a service objective.</p> <p>This compromise addresses the concerns expressed by the Office of Public Counsel (OPC), AARP and the Attorney General's Office that the quality service needs of customers with basic service are adequately met, by applying the rule to basic residential customers only.</p> <p>As a significant compromise from their original and continued belief that quality of service rules should not be applicable at all in Florida's competitive environment, the Petitioners propose that trouble conditions be corrected 80% of the time within 48 hours.</p> <p>The current rule's service "objective" should be remain as an objective that companies strive to meet, rather than changed to a standard, as recommended by staff. The rule should not be made more restrictive, given Florida's competitive environment, as companies need more flexibility to respond to the changing marketplace and to compete with unregulated entities.</p>

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Staff's Recommended Changes to Current Rule	Petitioners' Suggested Changes to Staff's Recommended Changes	Explanation for Petitioners Suggested Changes
<p>(a) Service Interruption: Restoration of interrupted service shall be scheduled to insure at least 95 percent shall be cleared within 24 hours of report in each exchange that contains at least 50,000 lines and will be measured on a monthly basis. For exchanges that contain less than 50,000 lines, the results can be aggregated on a quarterly basis. For any exchange failing to meet this objective, the company shall provide an explanation with its periodic report to the Commission.</p> <p>(b) Service Affecting: Clearing of service affecting trouble reports shall be scheduled to insure at least 95 percent of such reports are cleared within 72 hours of the report in each exchange which contains at least 50,000 lines and will be measured on a monthly basis. For exchanges which contain less than 50,000 lines, the results can be aggregated on a quarterly basis.</p> <p>(e4) If the customer requests that the service be restored on a particular day beyond the <u>objectives outlined service standard</u> in paragraphs (a) and (b) <u>subsection (3)</u> above, the trouble report shall be counted as having met the <u>service standard objective</u> if the requested date is met.</p> <p>(45) Priority shall be given to service interruptions that affect public health and safety that are reported to and verified by the company and such service interruptions shall be corrected as promptly as possible on an emergency basis.</p> <p>(5) Repeat Trouble: Each telephone company shall establish procedures to insure the prompt investigation and correction of repeat trouble reports such that the percentage of repeat troubles will not exceed 20 percent of the total initial customer reports in each exchange when measured on a monthly basis. A repeat trouble report is another report involving the same item of plant within 30 days of the initial report.</p> <p>(6) The <u>service standard objectives</u> of this rule shall not apply to subsequent customer reports; <u>or (not to be confused with repeat trouble reports)</u>, emergency situations, such as unavoidable casualties where at least 10 percent of an exchange is out of service.</p> <p>(7) Reporting Criteria: Each company shall <u>report pursuant to periodically report the data specified in Rule 25-4.0185, F.A.C., Periodic Reports, the performance of the company with respect to customer trouble reports on Form PSC/CMP 28 (4/05), incorporated into Rule 25-4.0185, F.A.C., by reference and available from the Division of Competitive Markets and Enforcement.</u></p> <p>(8) This rule shall apply to residential service only.</p>	<p><u>reported based on results for all residential telecommunications customers.</u></p> <p>(4) If the customer requests that the service be restored on a particular day beyond the <u>service objective standard</u> in subsection (3) above, the trouble report shall be counted as having met the <u>service objective standard</u> if the requested date is met.</p> <p>(5) Priority shall be given to service interruptions that affect public health and safety that are reported to and verified by the company and such service interruptions shall be corrected as promptly as possible on an emergency basis.</p> <p>(6) The <u>service objectives standard</u> of this rule shall not apply to subsequent customer reports or emergency situations, such as unavoidable casualties where at least 10 percent of an exchange is out of service.</p> <p>(7) Each company shall report pursuant to Rule 25-4.0185, F.A.C., Periodic Reports, the performance of the company with respect to customer trouble reports.</p> <p>(8) This rule shall apply to <u>basic residential service only.</u></p>	

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Staff's Recommended Changes to Current Rule	Petitioners' Suggested Changes to Staff's Recommended Changes	Explanation for Petitioners' Suggested Changes
<p>25-4.071 Adequacy of Service.</p> <p>(1) Each telecommunications company shall provide switching equipment, trunking, and associated facilities within its operating territory for the handling of local and toll traffic, designed and engineered on the basis of realistic forecasts of growth so that during the average busy season busy hour at least 97 percent of all calls offered to any trunk group (toll connecting, inter-office, extended area service) shall not encounter an all-trunk-busy condition.</p> <p>(12) Telephone calls to valid numbers shall should encounter a ring-back tone, line busy signal, or non-working number intercept facility (operator or recording) after completion of dialing. The call completion standards established for such calls by category of call is as follows:</p> <p>(a) Intra-office Calls — 95 percent, (b) Inter-office Calls — 95 percent, (c) Extended Area Calls — 95 percent, and (d) Intra-LATA DDD Calls — 95 percent.</p> <p>(3) All telephone calls to invalid telephone numbers shall encounter an operator or suitable recorded intercept facility, preferably a recording other than the non-working number recording used for valid number calls.</p> <p>(4) Intercept service shall be as outlined in Rule 25-4.074, F.A.C.</p> <p>(25) A line busy signal (60 impulse per minute tone) shall not be used for any signaling purpose except to denote that a subscriber's line, other valid terminal, centrex or PBX trunks, or equipment where the quantity is controlled by the customer is in use.</p>	<p>25-4.071 Adequacy of Service.</p> <p>(1) Telephone calls to valid numbers shall encounter a ring-back tone, line busy signal, or non-working number intercept facility after completion of dialing.</p> <p>(1) Telephone calls to valid numbers shall encounter a ring-back tone, line busy signal, or non-working number intercept facility after completion of dialing.</p> <p>(2) A line busy signal (60 impulse per minute tone) shall not be used for any signaling purpose except to denote that a subscriber's line, other valid terminal, centrex or PBX trunks, or equipment where the quantity is controlled by the customer is in use.</p>	<p>The Petitioners continue to believe this rule is unnecessary in Florida due to the presence of competition in the telecommunications market because customers can switch if an acceptable level of service is not provided. Even without this rule, the Commission can address any issue that arises through a specific review or in connection with a complaint. Further, the new section (2), as revised by staff, is unnecessary as it does nothing more than repeat the industry standards that companies already follow.</p>
<p>25-4.072 Transmission Requirements.</p> <p>(1) Telecommunications companies shall furnish and maintain the necessary plant, equipment, and facilities to provide modern, adequate, sufficient, and efficient transmission of communications between customers in their service areas. Transmission parameters shall conform to ANSI/IEEE Standard 820 Telephone Loop Performance Characteristics (Adopted 1984) incorporated herein by reference.</p> <p>(2) Accurate dependable milliwatt supplies shall be made a part of each central office. Additionally, for those central offices having an installed line capacity of 1,000 lines or more, the buffered access on a minimum three line rotary group basis shall be a part of the milliwatt supply.</p> <p>(3) Each central office shall be equipped with a minimum of one termination which shall trip ringing and terminate the line on a balanced basis so that end to end noise measurements may be made.</p>	<p>25-4.072 Transmission Requirements.</p> <p>(1) Telecommunications companies shall furnish and maintain the necessary plant, equipment, and facilities to provide modern, adequate, sufficient, and efficient transmission of communications between customers in their service areas. Transmission parameters shall conform to ANSI/IEEE Standard 820 Telephone Loop Performance Characteristics (Adopted 1984) incorporated herein by reference.</p> <p>(1) Telecommunications companies shall furnish and maintain the necessary plant, equipment, and facilities to provide modern, adequate, sufficient, and efficient transmission of communications between customers in their service areas. Transmission parameters shall conform to ANSI/IEEE Standard 820 Telephone Loop Performance Characteristics (Adopted 1984) incorporated herein by reference.</p> <p>(2) Accurate dependable milliwatt supplies shall be made a part of each central office. Additionally, for those central offices having an installed line capacity of 1,000 lines or more, the buffered access on a minimum three line rotary group basis shall be a part of the milliwatt supply.</p> <p>(2) Accurate dependable milliwatt supplies shall be made a part of each central office. Additionally, for those central offices having an installed line capacity of 1,000 lines or more, the buffered access on a minimum three line rotary group basis shall be a part of the milliwatt supply.</p> <p>(3) Each central office shall be equipped with a minimum of one termination which shall trip ringing and terminate the line on a balanced basis so that end to end noise measurements may be made.</p>	<p>The Petitioners continue to believe this rule is unnecessary in Florida due to the presence of competition in the telecommunications market. Even without this rule, the Commission can address any issue that arises through a specific review or in connection with a complaint.</p> <p>The current rule, which staff does not propose to amend at this time, merely sets forth industry standards that companies already follow. Interconnection with the CLECs – who are not subject to such a rule – takes place today. The Petitioners do not propose that additional regulation be placed on the CLECs, but that this rule be eliminated for the ILECs. Industry self-regulation has proven to be adequate such that this rule is not needed. Further, Petitioners note that the 1984 ANSI/IEEE Standard referenced in the rule has been superseded by the 2005 Standard.</p>

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Staff's Recommended Changes to Current Rule	Petitioners' Suggested Changes to Staff's Recommended Changes	Explanation for Petitioners Suggested Changes
<p style="text-align: center;">25-4.073 Answering Time for Residential Service</p> <p>(1) Each telephone utility company shall provide equipment designed and engineered on the basis of realistic forecasts of growth, and shall make all reasonable efforts to provide adequate personnel so as to meet the following service standards criteria under normal operating conditions:</p> <p>(a) At least 90 percent of all calls directed to repair services and 80 percent of all calls to business and repair offices for residential service shall be answered within 30-90 seconds after the last digit is dialed when no menu driven system is utilized.</p> <p>(b) When a company utilizes a menu driven, automated, interactive answering system (referred to as the system or as an Integrated Voice Response Unit (IVRU)), at least 95 percent of the calls offered shall be answered within 45-30 seconds after the last digit is dialed. The initial recorded message presented by the system to the customer shall include the option of transferring to a live attendant within the first 360 seconds of the message.</p> <p>(c) For subscribers who either select the option of transferring to a live assistant, or do not interact with the system for twenty seconds, the call shall be transferred by the system to a live attendant. At least 90 percent of the calls shall be answered by the live attendant prepared to give immediate assistance within 55-90 seconds of being transferred to the attendant.</p> <p>(d) The terms "answered" as used in paragraphs (a) and (c) above, shall be construed to mean more than an acknowledgment that the customer is waiting on the line. It shall mean that the service representative is ready to render assistance.</p> <p>(2) Answering time studies using actual data or any statistically valid</p>	<p style="text-align: center;">25-4.073 Answering Time for Residential Service</p> <p>(1) Each telephone company shall provide equipment designed and engineered on the basis of realistic forecasts of growth, and shall make all reasonable efforts to provide adequate personnel so as to meet the following service standards under normal operating conditions:</p> <p>(a) <u>Answer time for calls directed to repair services and calls directed to business offices for basic residential service customers will be measured and reported based on the average speed of answer (ASA). Measurement of ASA begins when the call leaves the Integrated Voice Response Unit (IVRU) and ends when a service representative answers the call or the caller abandons the call. Where an IVRU is not used, measurement of ASA begins as soon as the call is received and ends when a service representative answers the call or the caller abandons the call. The ASA shall not exceed 120 seconds. For companies that do not have systems enabling them to report results on an automated basis according to service type, performance will be measured and reported based on results for all residential telecommunications customers. Upon request, the Commission may authorize a company to measure and report results on an alternative basis. At least 90 percent of all calls directed to business and repair offices for residential service shall be answered within 90 seconds after the last digit is dialed when no menu driven system is utilized.</u></p> <p>(b) <u>For calls initially routed to an automated menu and handled without the intervention of a live business office representative, the answer time for these calls should be counted as one second. When a company utilizes a menu driven, automated, interactive answering system (referred to as the system or as an Integrated Voice Response Unit (IVRU)), at least 95 percent of the calls offered shall be answered within 30 seconds after the last digit is dialed. The initial recorded message presented by the system to the customer shall include the option of transferring to a live attendant within the first 60 seconds of the message.</u></p> <p>(c) <u>For subscribers who select the option of transferring to a live assistant, the call shall be transferred by the system to a live attendant. At least 90 percent of the calls shall be answered by the live attendant prepared to give immediate assistance within 90 seconds of being transferred to the attendant.</u></p> <p>(cd) <u>The terms "answered" as used in paragraphs (a) and (e) above, shall refer to calls in which the customer elects to speak to a service representative, and shall be construed to mean more than an acknowledgment that the customer is waiting on the line. It shall mean that the service representative is ready to render assistance.</u></p>	<p>The Petitioners continue to believe this rule is unnecessary in Florida due to the presence of competition in the telecommunications market. Even without this rule, the Commission can address any issue that arises through a specific review or in connection with a complaint. Nonetheless, as a compromise, the Petitioners propose a rule that applies to basic residential service and that requires an ASA not to exceed 120 seconds.</p> <p>This compromise addresses the concerns expressed by the OPC, AARP and the Attorney General's Office that the quality service needs of customers with basic service are adequately met, by applying the rule to basic residential customers only.</p> <p>As a significant compromise from their original and continued belief that quality of service rules should not be applicable at all in Florida's competitive environment, the Petitioners propose an ASA of not more than 120 seconds, in order to provide the Commission with assurance that the answer time will not be unreasonable and will be on par with other answer times experienced by customers in other industries. Within the parameters of that safety net for customers, the Commission should let the market regulate the service provided by the ILECs, so that the ILECs can respond to Florida's competitive telecommunications market, compete with unregulated entities and provide customers with the services and service quality that they truly value.</p>

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<p>substitute for actual data shall be made to the extent and frequency necessary to determine compliance with this rule.</p> <p>(23) All telecommunications companies are expected to answer their main published telephone number on a 24 hour a day basis. Such answering may be handled by a special operator at the toll center or directory assistance facility when the company offices are closed. Where after hours calls are not handled as described above, at least the first published business office number will be equipped with a telephone answering device which will notify callers after the normal working hours of the hours of operation for that business office. Where recording devices are used, the message shall include the telephone number assigned to handle urgent or emergency calls when the business office is closed.</p> <p>(34) Each company shall report, pursuant to Rule 25-4.0185, F.A.C., Periodic Reports, the performance of the company with respect to answer time, as outlined in Form PSC/CMP 28 (4/05), incorporated into Rule 25-4.0185, F.A.C., by reference and available from the Division of Competitive Markets and Enforcement.</p> <p><u>(4) This rule shall apply to residential service only.</u></p>	<p>(2) All telecommunications companies are expected to answer their main published telephone number on a 24 hour a day basis. Such answering may be handled by a special operator at the toll center or directory assistance facility when the company offices are closed. Where after hours calls are not handled as described above, at least the first published business office number will be equipped with a telephone answering device which will notify callers after the normal working hours of the hours of operation for that business office. Where recording devices are used, the message shall include the telephone number assigned to handle urgent or emergency calls when the business office is closed.</p> <p>(3) Each company shall report pursuant to Rule 25-4.0185, F.A.C., Periodic Reports, the performance of the company with respect to answer time.</p> <p>(4) This rule shall apply to <u>basic</u> residential service only.</p>	

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<p>25-4.110 Customer Billing for Local Exchange Telecommunications Companies.</p> <p>(1) Each company shall issue bills monthly or may offer customers a choice of billing intervals that includes a monthly billing interval.</p> <p>(2) Each billing party shall set forth on the bill all charges, fees, and taxes which are due and payable.</p> <p>(a) There shall be a heading for each originating party which is billing to that customer account for that billing period. The heading shall clearly and conspicuously indicate the originating party's name. If the originating party is a certificated telecommunications company, the certificated name must be shown. If the originating party has more than one certificated name, the name appearing in the heading must be the name used to market the service.</p> <p>(b) The toll-free customer service number for the service provider or its customer service agent must be conspicuously displayed in the heading, immediately below the heading, or immediately following the list of charges for the service provider. For purposes of this subparagraph, the service provider is defined as the company which provided the service to the end user. If the service provider has a customer service agent, the toll-free number must be that of the customer service agent and must be displayed with the service provider's heading or with the customer service agent's heading, if any. For purposes of this subparagraph, a customer service agent is a person or entity that acts for any originating party pursuant to the terms of a written agreement. The scope of such agency shall be limited to the terms of such written agreement.</p> <p>(c) Each charge shall be described under the applicable originating party heading.</p> <p>(d) 1. Taxes, fees, and surcharges related to an originating party heading shall be shown immediately below the charges described under that heading. The terminology for Federal Regulated Service Taxes, Fees, and Surcharges must be consistent with all FCC required terminology.</p> <p>2. The billing party shall either:</p> <p>a. Identify Florida taxes and fees applicable to charges on the customer's bill and identify the assessment base and rate for each percentage based tax, fee, and surcharge, or</p> <p>b. (i) Provide a plain language explanation of any line item and applicable tax, fee, and surcharge to any customer who contacts the billing party or customer service agent with a billing question and expresses difficulty in understanding the bill after discussion with a</p>	<p>25-4.110 Customer Billing for Local Exchange Telecommunications Companies.</p> <p>(1) Each company shall <u>comply with the requirements as prescribed by the Federal Communications Commission in Title 47, Code of Federal Regulations, Part 64, Sections 64.2400 and 64.2401, Truth-in-Billing Requirements for Common Carriers, revised as of October 1, 2007,</u> issue bills monthly or may offer customers a choice of billing intervals that includes a monthly billing interval.</p>	<p>The Petitioners continue to believe this rule is unnecessary in Florida due to the presence of competition in the telecommunications market. None of the provisions of this rule are required of the CLECs or of any of the ILECs' other competitors. In addition, the requirements in Section 364.604, F.S., and the FCC's requirements in 47 C.F.R. §§64.2400-64.2401 adequately cover this area. Nonetheless, as a compromise, the Petitioners propose a rule that references the FCC's requirements. The FCC's Truth-In-Billing requirements provide customers the tools needed to make informed choices in the market and provide carriers with specific requirements as to information provided to customers on their bills. Anything additional is unnecessary and redundant and serves only to micromanage the ILECs' billing. Further, requiring pre-approval by the Commission of bill changes is costly and may discourage streamlining of customer bills.</p> <p>As for the specific portions staff proposes to retain, the Petitioners respond as follows:</p> <ul style="list-style-type: none"> • Subsections (4) and (5) - staff proposes retaining the itemization requirements as well as items required on the bill. Neither of these sections apply to CLECs or the ILECs' other competitors. Further, the FCC's requirements and Section 364.604, F.S., require any charge on the customer's bill be clearly identified as to who provided the service, what the service is and the charges for the service. The items staff is proposing to retain are unnecessary. • Subsection (6) - staff proposes retaining the requirement to provide service interruption credits. This is unnecessary since this provision is duplicative of the requirement in Rule 25-4.070, F.A.C. • Subsection (10) - staff proposes retaining the 12 month backbilling requirement for the ILECs. No other carrier has to comply with such a requirement. The FCC and Section 364.604, F.S., only allow carriers to bill for what customers have requested. In a competitive environment, a company should be able to make a business decision, in compliance with its tariff, whether to backbill or not. ILECs should be able to collect the charges for the services provided and should not be limited to an arbitrary timeframe when making business decisions. • New Subsection (12) - staff proposes to retain portions of the 900/976 rules to adjust the bill containing Pay Per Call charges upon the customer's stated lack of

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<p>ervice representative.</p> <p>(ii) If the customer requests or continues to express difficulty in understanding the explanation of the authority, assessment base or rate of any tax, fee or surcharge, the billing party shall provide an explanation of the state, federal, or local authority for each tax, fee, and surcharge; the line items which comprise the assessment base for each percentage based tax, fee, and surcharge; or the rate of each state, federal, or local tax, fee, and surcharge consistent with the customer's concern. The billing party or customer service agent shall provide this information to the customer in writing upon the customer's request.</p> <p>(2e) If each recurring charge due and payable is not itemized, each bill shall contain the following statement: "Further written itemization of local billing available upon request." In addition, the billing party will provide a plain language explanation to any customer who contacts the billing party.</p> <p>(3) Each LEC shall provide an itemized bill for local service:</p> <p>(a) With the first bill rendered after local exchange service to a customer is initiated or changed; and</p> <p>(b) To every customer at least once each twelve months.</p> <p>(4) The annual itemized bill shall be accompanied by a bill insert or bill message stuffer which explains the itemization and advises the customer to verify the items and charges on the itemized bill. This bill insert or bill message stuffer shall be submitted to the Commission's Division of Regulatory Compliance Competitive Markets and Enforcement for prior approval. The itemized bill provided to residential customers and to business customers with less than ten access lines per service location shall be in easily understood language. The itemized bill provided to business customers with ten or more access lines per service location may be stated in service order code, provided that it contains a statement that, upon request, an easily understood translation is available in written form without charge. An itemized bill shall include, but not be limited to the following information, separately stated:</p> <p>(a) Number and types of access lines;</p> <p>(b) Charges for access to the system, by type of line;</p> <p>(c) Touch tone service charges;</p> <p>(cd) Charges for each custom calling features, separated by feature or package;</p> <p>(de) Unlisted number charges;</p> <p>(ef) Local directory assistance charges;</p> <p>(fg) Other tariff charges; and</p> <p>(gh) Other nontariffed, regulated charges contained in the bill.</p> <p>(5) All bills rendered by a local exchange company shall clearly state the following items:</p> <p>(a) Any discount or penalty. The originating party is responsible</p>	<p>(2) If each recurring charge due and payable is not itemized, each bill shall contain the following statement: "Further written itemization of local billing available upon request." In addition, the billing party will provide a plain language explanation to any customer who contacts the billing party.</p> <p>(3) Each LEC shall provide an itemized bill for local service:</p> <p>(a) With the first bill rendered after local exchange service to a customer is initiated or changed; and</p> <p>(b) To every customer at least once each twelve months.</p> <p>(4) The annual itemized bill shall be accompanied by a bill insert or bill message which explains the itemization and advises the customer to verify the items and charges on the itemized bill. This bill insert or bill message shall be submitted to the Commission's Division of Regulatory Compliance for prior approval. An itemized bill shall include, but not be limited to the following information, separately stated:</p> <p>(a) Number and types of access lines;</p> <p>(b) Charges for access to the system, by type of line;</p> <p>(c) Charges for each custom calling feature or package;</p> <p>(d) Unlisted number charges;</p> <p>(e) Local directory assistance charges;</p> <p>(f) Other tariff charges; and</p> <p>(g) Other nontariffed, regulated charges contained in the bill.</p> <p>(5) All bills rendered by a local exchange company shall clearly state the following items:</p> <p>(a) Any discount or penalty. The originating party is responsible</p>	<p>knowledge that such calls have a charge. In addition, staff proposes retaining 900/976 notice of blocking provisions to the customer. None of these requirements are applied to the ILECs' competitors and they are unnecessary in today's environment. The FCC's rules and Section 364.604, F.S., require the carriers to clearly identify all charges on the bill and to provide specific notice to customers about how to contest charges on the bill. If the customer disputes the charges, Section 364.604(2), F.S., prohibits carriers from charging for services not requested by the customer. If a dispute arises, then the appropriate method to resolve it would be a complaint proceeding before the Commission.</p>

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<p>or informing the billing party of all such penalties or discounts to appear on the bill, in a form usable by the billing party;</p> <p>(b) Past due balance;</p> <p>(c) <u>Amounts or items</u> for which nonpayment will result in disconnection of the customer's basic local service, including a statement of the consequences of nonpayment;</p> <p>(d) Long-distance monthly or minimum charges, if included in the bill;</p> <p>(e) Long-distance usage charges, if included in the bill;</p> <p>(f) Usage-based local charges, if included in the bill;</p> <p>(g) Telecommunications Access System Surcharge, per subsection 25-4.160(3), F.A.C.;</p> <p>(h) "911" fee per Section 365.171(13), F.S.; and</p> <p>(i) Delinquent date.</p> <p>(6) Each company shall make appropriate adjustments or refunds where the subscriber's service is interrupted by other than the subscriber's negligent or willful act, and remains out of order in excess of <u>48</u>24 hours after the subscriber notifies the company of the interruption. The refund to the subscriber shall be the pro rata part of the month's charge for the period of days and that portion of the service and facilities rendered useless or inoperative; except that the refund shall not be applicable for the time that the company stands ready to repair the service and the subscriber does not provide access to the company for such restoration work. The refund may be accomplished by a credit on a subsequent bill for telephone service.</p> <p>(7)(a) Bills shall not be considered delinquent prior to the expiration of 15 days from the date of mailing or delivery by the company. However, the company may demand immediate payment under the following circumstances:</p> <ol style="list-style-type: none"> 1. Where service is terminated or abandoned; 2. Where toll service is two times greater than the subscriber's average usage as reflected on the monthly bills for the three months prior to the current bill, or, in the case of a new customer who has been receiving service for less than four months, where the toll service is twice the estimated monthly toll service; or 3. Where the company has reason to believe that a business subscriber is about to go out of business or that bankruptcy is imminent for that subscriber. <p>(b) The demand for immediate payment shall be accompanied by a bill which itemizes the charges for which payment is demanded, or, if the demand is made orally, an itemized bill shall be mailed or delivered to the customer within three days after the demand is made.</p> <p>(c) If the company cannot present an itemized bill, it may present a summarized bill which includes the customer's name and address and the total amount due. However, a customer may refuse to make payment until an itemized bill is presented. The company shall</p>	<p>for informing the billing party of all such penalties or discounts to appear on the bill, in a form usable by the billing party;</p> <p>(b) Past due balance;</p> <p>(c) Amounts or items for which nonpayment will result in disconnection of the customer's basic local service, including a statement of the consequences of nonpayment;</p> <p>(d) Long distance monthly or minimum charges, if included in the bill;</p> <p>(e) Long distance usage charges, if included in the bill;</p> <p>(f) Usage based local charges, if included in the bill;</p> <p>(g) Telecommunications Access System Surcharge, per subsection 25-4.160(3), F.A.C.;</p> <p>(h) "911" fee per Section 365.171(13), F.S.; and</p> <p>(i) Delinquent date.</p> <p>(6) Each company shall make appropriate adjustments or refunds where the subscriber's service is interrupted by other than the subscriber's negligent or willful act, and remains out of order in excess of 48 hours after the subscriber notifies the company of the interruption. The refund to the subscriber shall be the pro rata part of the month's charge for the period of days and that portion of the service and facilities rendered useless or inoperative; except that the refund shall not be applicable for the time that the company stands ready to repair the service and the subscriber does not provide access to the company for such restoration work. The refund may be accomplished by a credit on a subsequent bill for telephone service.</p> <p>(7) Bills shall not be considered delinquent prior to the expiration of 15 days from the date of mailing or delivery by the company.</p>	

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<p>inform the customer that he may refuse payment until an itemized bill is presented.</p> <p>(8) Each telephone company shall include a bill insert <u>or bill message</u> advising each subscriber of the directory closing date and the subscriber's opportunity to correct any error or make changes as the subscriber deems necessary in advance of the closing date. It shall also state that at no additional charge and upon the request of any residential subscriber, the exchange company shall list an additional first name or initial under the same address, telephone number, and surname of the subscriber. The notice shall be included in the billing cycle closest to 60 days preceding the directory closing date.</p> <p>(9) Annually, each telephone company shall include a bill insert <u>or bill message</u> advising each residential subscriber of the option to have the subscriber's name placed on the "No Sales Solicitation" list maintained by the Department of Agriculture and Consumer Services, Division of Consumer Services, and the 800 number to contact to receive more information.</p> <p>(10) Where any undercharge in billing of a customer is the result of a company mistake, the company may not backbill in excess of 12 months. Nor may the company recover in a ratemaking proceeding any lost revenue which inures to the company's detriment on account of this provision.</p> <p>(11) Local Communications Services Tax.</p> <p>(a) The Local Communications Services Tax is comprised of the discretionary communications services tax levied by the governing authority of each municipality and county authorized by Chapter 202, F.S.</p> <p>(b) When a municipality or county levies the Local Communications Services Tax authorized by Chapter 202, F.S., the local exchange company may collect that tax only from its subscribers receiving service within that municipality or county.</p> <p>(c) A local exchange company may not incorporate any portion of the Local Communications Services Tax into its other rates for service.</p> <p>(12) State Communications Services Tax.</p> <p>(a) The State Communications Services Tax is comprised of the Gross Receipts Tax imposed by Chapter 203, F.S., the communications services sales tax imposed by Chapter 202, F.S., and any local option sales tax.</p> <p>(b) A local exchange company may not incorporate any portion of the State Communications Services Tax into its other rates for service.</p> <p>(113) Each LEC shall apply partial payment of an end user/customer bill first towards satisfying any unpaid regulated charges. The remaining portion of the payment, if any, shall be</p>	<p>(8) Each telephone company shall include a bill insert or bill message advising each subscriber of the directory closing date and the subscriber's opportunity to correct any error or make changes as the subscriber deems necessary in advance of the closing date. It shall also state that at no additional charge and upon the request of any residential subscriber, the exchange company shall list an additional first name or initial under the same address, telephone number, and surname of the subscriber. The notice shall be included in the billing cycle closest to 60 days preceding the directory closing date.</p> <p>(9) Annually, each telephone company shall include a bill insert or bill message advising each residential subscriber of the option to have the subscriber's name placed on the "No Sales Solicitation" list maintained by the Department of Agriculture and Consumer Services, Division of Consumer Services, and the 800 number to contact to receive more information.</p> <p>(10) Where any undercharge in billing of a customer is the result of a company mistake, the company may not backbill in excess of 12 months.</p> <p>(11) Each LEC shall apply partial payment of an end user/customer bill first towards satisfying any unpaid regulated charges. The remaining portion of the payment, if any, shall be</p>	

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<p>applied to nonregulated charges.</p> <p>(14) All bills produced shall clearly and conspicuously display the following information for each service billed in regard to each company claiming to be the customer's presubscribed provider for local, local toll, or toll service:</p> <ul style="list-style-type: none"> (a) The name of the certificated company; (b) Type of service provided, i.e., local, local toll, or toll; and (c) A toll-free customer service number. <p>(15) This section applies to LECs that provide transmission services or bill and collect on behalf of Pay Per Call providers. Pay Per Call services are defined as switched telecommunications services between locations within the State of Florida which permit communications between an end-use customer and an information provider's program at a per-call charge to the end user/customer. Pay Per Call services include 976 services provided by the LECs and 900 services provided by interexchange carriers.</p> <p>(a) Charges for Pay Per Call service (900 or 976) shall be segregated from charges for regular long distance or local charges by appearing separately under a heading that reads as follows: "Pay Per Call (900 or 976) nonregulated charges." The following information shall be clearly and conspicuously disclosed on each section of the bill containing Pay Per Call service (900 or 976) charges:</p> <ul style="list-style-type: none"> 1. Nonpayment of Pay Per Call service (900 or 976) charges will not result in disconnection of local service; 2. End users/customers can obtain free blocking of Pay Per Call service (900 or 976) from the LEC; 3. The local or toll-free number the end user/customer can call to dispute charges; 4. The name of the IXC providing 900 service; and 5. The Pay Per Call service (900 or 976) program name. <p>(b) Pay Per Call Service (900 and 976) Billing. LECs and IXCs who have a tariff or contractual relationship with a Pay Per Call (900 or 976) provider shall not provide Pay Per Call transmission service or billing services, unless the provider does each of the following:</p> <ul style="list-style-type: none"> 1. Provides a preamble to the program which states the per minute and total minimum charges for the Pay Per Call service (900 and 976); child's parental notification requirement is announced on preambles for all programs where there is a potential for minors to be attracted to the program; child's parental notification requirement in any preamble to a program targeted to children must be in language easily understandable to children; and programs that do not exceed \$3.00 in total charges may omit the preamble, except as provided in subparagraph (1)(b)3-; 2. Provides an 18 second billing grace period in which the end user/customer can disconnect the call without incurring a charge; from the time the call is answered at the Pay Per Call provider's 	<p>applied to nonregulated charges.</p>	

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<p>premises, the preamble message must be no longer than 15 seconds. The program may allow an end user/customer to affirmatively bypass a preamble;</p> <p>3. Provides on each program promotion targeted at children (defined as younger than 18 years of age) clear and conspicuous notification, in language understandable to children, of the requirement to obtain parental permission before placing or continuing with the call. The parental consent notification shall appear prominently in all advertising and promotional materials, and in the program preamble. Children's programs shall not have rates in excess of \$5.00 per call, and shall not include the enticement of a gift or premium;</p> <p>4. Promotes its services without the use of an autodialer or broadcasting of tones that dial a Pay Per Call (900 or 976) number;</p> <p>5. Prominently discloses the additional cost per minute or per call for any other telephone number that an end user/customer is referred to either directly or indirectly;</p> <p>6. In all advertising and promotional materials, displays charges immediately above, below, or next to the Pay Per Call number, in type size that can be seen as clearly and conspicuously at a glance as the Pay Per Call number. Broadcast television advertising charges, in Arabic numerals, must be shown on the screen for the same duration as the Pay Per Call number is shown, each time the Pay Per Call number is shown. Oral representations shall be equally as clear;</p> <p>7. Provides on Pay Per Call services that involve sales of products or merchandise clear preamble notification of the price that will be incurred if the end user/customer stays on the line, and a local or toll free number for consumer complaints; and</p> <p>8. Meets internal standards established by the LEC or IXC as defined in the applicable tariffs or contractual agreement between the LEC and the IXC; or between the LEC/IXC and the Pay Per Call (900 or 976) provider which when violated, would result in the termination of a transmission or billing arrangement.</p> <p>(12)(c) Pay Per Call (900 and 976) Blocking. Each LEC shall provide blocking where technically feasible of Pay Per Call service (900 and 976), at the request of the end user/customer at no charge. Each LEC or IXC must implement a bill adjustment tracking system to aid its efforts in adjusting and sustaining Pay Per Call charges. The LEC or IXC will adjust the first bill containing Pay Per Call charges upon the end user's/customer's stated lack of knowledge that Pay Per Call service (900 and 976) has a charge. A second adjustment will be made if necessary to reflect calls billed in the following month which were placed prior to the Pay Per Call service inquiry. At the time the charge is removed, the end user/customer shall be notified of the availability of may agree to free blocking of Pay Per Call service (900 and 976).</p>	<p>The LEC or IXC will adjust the first bill containing Pay Per Call charges upon the end user's/customer's stated lack of knowledge that Pay Per Call service (900 and 976) has a charge. A second adjustment will be made if necessary to reflect calls billed in the following month which were placed prior to the Pay Per Call service inquiry. At the time the charge is removed, the end user/customer shall be notified of the availability of free blocking of Pay Per Call service (900 and 976).</p>	

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<p>(d) Dispute resolution for Pay Per Call service (900 and 976). Charges for Pay Per Call service (900 and 976) shall be automatically adjusted upon complaint that:</p> <ol style="list-style-type: none"> 1. The end user/customer did not receive a price advertisement, the price of the call was misrepresented to the consumer, or the price advertisement received by the consumer was false, misleading, or deceptive; 2. The end user/customer was misled, deceived, or confused by the Pay Per Call (900 or 976) advertisement; 3. The Pay Per Call (900 or 976) program was incomplete, garbled, or of such quality as to render it inaudible or unintelligible, or the end user/customer was disconnected or cut off from the service; 4. The Pay Per Call (900 and/or 976) service provided out of date information; or 5. The end user/customer terminated the call during the preamble described in subparagraph 25-4.110(11)(b)2., F.A.C., and was charged for the Pay Per Call service (900 or 976). <p>(e) If the end user/customer refuses to pay a disputed Pay Per Call service (900 or 976) charge which is subsequently determined by the LEC to be valid, the LEC or IXC may implement Pay Per Call (900 and 976) blocking on that line.</p> <p>(f) Credit and Collection. LECs and IXCs billing Pay Per Call (900 and 976) charges to an end user/customer in Florida shall not:</p> <ol style="list-style-type: none"> 1. Collect or attempt to collect Pay Per Call service (900 or 976) charges which are being disputed or which have been removed from an end user's/customer's bill; or 2. Report the end user/customer to a credit bureau or collection agency solely for non-payment of Pay Per Call (900 or 976) charges. <p>(g) LECs and IXCs billing Pay Per Call service (900 and 976) charges to end users/customers in Florida shall implement safeguards to prevent the disconnection of phone service for non-payment of Pay Per Call (900 or 976) charges.</p> <p>(136) Companies that bill for local service must provide notification with the customer's first bill or via letter, and annually thereafter that a PC-Freeze is available at no charge. Existing customers must be notified annually that a PC-Freeze is available at no charge. Notification shall conform to the requirements of Rule 25-4.083.</p> <p>(17) The customer must be given notice on the first or second page of the customer's next bill in conspicuous bold-face type when the customer's presubscribed provider of local, local toll, or toll service has changed.</p> <p>(148) If a customer notifies a billing party that they did not order an item appearing on their bill or that they were not provided a service appearing on their bill, the billing party shall promptly</p>	<p>(13) Companies that bill for local service must provide notification with the customer's first bill or via letter, and annually thereafter that a PC-Freeze is available at no charge. Existing customers must be notified annually that a PC-Freeze is available at no charge. Notification shall conform to the requirements of Rule 25-4.083.</p> <p>(14) If a customer notifies a billing party that they did not order an item appearing on their bill or that they were not provided a service appearing on their bill, the billing party shall promptly</p>	

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<p>provide the customer a credit for the item and remove the item from the customer's bill, with the exception of the following:</p> <p>(a) Charges that originate from:</p> <ol style="list-style-type: none"> 1. Billing party or its affiliates; 2. A governmental agency; 3. A customer's presubscribed intraLATA or interLATA nterexchange carrier; and <p>(b) Charges associated with the following types of calls:</p> <ol style="list-style-type: none"> 1. Collect calls; 2. Third party calls; 3. Customer dialed calls for; and 4. Calls using a 10-10-xxx calling pattern. <p>(15)(a) Upon request from any customer, a billing party must restrict charges in its bills to only:</p> <ol style="list-style-type: none"> 1. Those charges that originate from the following: <ol style="list-style-type: none"> a. Billing party or its affiliates; b. A governmental agency; c. A customer's presubscribed intraLATA or interLATA interexchange carrier; and 2. Those charges associated with the following types of calls: <ol style="list-style-type: none"> a. Collect calls; b. Third party calls; c. Customer dialed calls; and d. Calls using a 10-10-xxx calling pattern. <p>(b) Customers must be notified of this right by billing parties annually and at each time a customer notifies a billing party that the customer's bill contained charges for products or services that the customer did not order or that were not provided to the customer.</p> <p>(c) Small local exchange telecommunications companies as defined in Section 364.052(1), F.S., are exempted from this subsection.</p> <p>(20) Nothing prohibits originating parties from billing customers directly, even if a charge has been blocked from a billing party's bill at the request of a customer.</p> <p><u>(16) In addition to the requirements listed in subsections (1) through (15) above, the local provider shall meet the requirements as prescribed by the Federal Communications Commission in Title 47, Code of Federal Regulations, Part 64, Sections 64.2400 and 64.2401, Truth-in-Billing Requirements for Common Carriers, revised as of October 1, 2007, which are incorporated into this rule by reference.</u></p>	<p>provide the customer a credit for the item and remove the item from the customer's bill, with the exception of the following:</p> <p>(a) Charges that originate from:</p> <ol style="list-style-type: none"> 1. Billing party or its affiliates; 2. A governmental agency; 3. A customer's presubscribed intraLATA or interLATA nterexchange carrier; and <p>(b) Charges associated with the following types of calls:</p> <ol style="list-style-type: none"> 1. Collect calls; 2. Third party calls; 3. Customer dialed calls for; and 4. Calls using a 10-10-xxx calling pattern. <p>(15)(a) Upon request from any customer, a billing party must restrict charges in its bills to only:</p> <ol style="list-style-type: none"> 1. Those charges that originate from the following: <ol style="list-style-type: none"> a. Billing party or its affiliates; b. A governmental agency; c. A customer's presubscribed intraLATA or interLATA interexchange carrier; and 2. Those charges associated with the following types of calls: <ol style="list-style-type: none"> a. Collect calls; b. Third party calls; c. Customer dialed calls; and d. Calls using a 10-10-xxx calling pattern. <p>(b) Customers must be notified of this right by billing parties annually and at each time a customer notifies a billing party that the customer's bill contained charges for products or services that the customer did not order or that were not provided to the customer.</p> <p>(c) Small local exchange telecommunications companies as defined in Section 364.052(1), F.S., are exempted from this subsection.</p> <p>(16) In addition to the requirements listed in subsections (1) through (15) above, the local provider shall meet the requirements as prescribed by the Federal Communications Commission in Title 47, Code of Federal Regulations, Part 64, Sections 64.2400 and 64.2401, Truth-in-Billing Requirements for Common Carriers, revised as of October 1, 2007, which are incorporated into this rule by reference.</p>	