

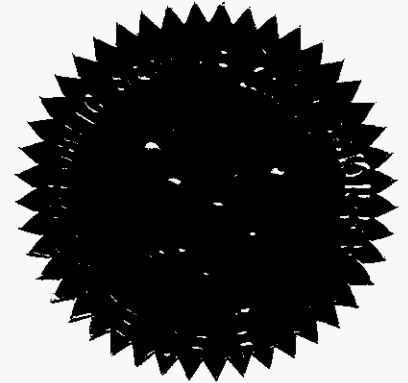
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 060476-TL

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In the Matter of:

PETITION TO INITIATE RULEMAKING TO AMEND
RULES 25-24.630(1) AND 25-24.516(1),
F.A.C., BY BELLSOUTH TELECOMMUNICATIONS, INC.



PROCEEDINGS:

AGENDA CONFERENCE
ITEM NO. 6

BEFORE:

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

DATE:

Tuesday, March 3, 2009

PLACE:

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

REPORTED BY:

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

1 PARTICIPATING:

2 STAN GREER and TRACY HATCH, ESQUIRE, representing AT&T.

3 BRUCE RENARD, representing FPTA.

4 RICHARD BELLAK, ESQUIRE, RAY KENNEDY, and RICK MOSES,

5 representing the Commission staff.

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P R O C E E D I N G S

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CHAIRMAN CARTER: And with that, Commissioners, we are on Item 6.

MR. BELLAK: Good morning, Commissioners.

Item 6 concerns BellSouth/AT&T's petition for rulemaking to amend the rate caps on operator services and payphone charges. Staff's recommendation is that the caps be raised as set out in Attachment A and in the chart on Page 6 of the recommendation with the result that there would be higher rates for these services, but not as high as requested by AT&T and the other petitioners. I believe that there are parties seeking to address you on these issues.

CHAIRMAN CARTER: Okay. Let's hear from the parties.

MR. GREER: Yes, Commissioner.

My name is Stan Greer; I'm here on behalf of AT&T. When we filed the petition back in '06, we essentially had three main reasons. One was that we believed operator services to be a very competitive -- a very competitive industry and that there was alternatives for customers when they needed to use an operator service provider. We also believe that in the call aggregator situation that there's more opportunities for customers to use wireless and any other type of ability to call operator service providers.

For the ILEC side of the house, ILECs today already have price caps for their operator services under 364.051, I

1 believe is the statute number, and we didn't believe it made
2 sense to have two separate price caps, at least for the ILEC's
3 operations.

4 We believe the staff has pretty much moved in the
5 right direction, but we haven't got to the point where we think
6 we ought to be where it is either let the market set the rates,
7 or, in the alternative, use like an ILEC price cap rate for the
8 cap instead of the \$5 that the staff has proposed.

9 CHAIRMAN CARTER: Mr. Hatch.

10 MR. RENARD: Good morning, Commissioners. My name is
11 Bruce Renard, and I'm Executive Director of the Florida Public
12 Telecommunication Association. We represent the remaining
13 payphone providers in the state of Florida. And let me first
14 thank the staff for the effort and thoughtfulness they have put
15 into this rule recommendation.

16 Nine years is a long time to operate under a rate
17 cap, especially in today's world. And during this time, as the
18 staff points out, there has been a huge drop in the payphone
19 base in the state of Florida as well as in the number of
20 providers in the state. And obviously this is due to the
21 growth we have seen in the wireless business. But that does
22 not mean that payphones don't continue to play an important
23 role in this state. For our most economically disadvantaged,
24 payphones are a lifeline in a very real sense. And in times of
25 emergency, payphones have proven themselves to be a reliable

1 way of communicating. When your cell phone is down; when your
2 home phone is down in a hurricane, in a power outage, payphones
3 time and again have proven to be the safety net. So payphones
4 are still an important factor in Florida.

5 And, unfortunately, there has been a dramatic drop in
6 the call volumes on these phones, and when the call volumes
7 drop, rates have to go up. If you want to keep pay phones out
8 there for the public, something needs to be done. And I think
9 the staff has recognized that in the recommendation in
10 recommending to you that there be a slight increase in the rate
11 cap for payphones.

12 The law of the land remains in the Federal Statute,
13 Section 276 of the Communications Act, which mandates
14 widespread availability of payphones in this country, including
15 the state of Florida. And to be true to this mandate that's
16 still there in the law, we would ask you to consider going
17 beyond what the staff has recommended in the way of an
18 increase. We have presented what we believe to be a
19 market-based rate that is well substantiated in the record, and
20 you have been given information in the staff's recommendation
21 as to what the average rates are out there in the relevant
22 areas today, and so I think you have got several alternatives
23 to look at here to make a difference in maintaining a payphone
24 base in the state for the people of the state of Florida.

25 You know, we all like to have low rates, and payphone

1 providers are no different. To be competitive you want your
2 rates to be low. So we are not in here asking you to pad the
3 payphone providers' pockets. What we are saying to you is
4 having low rates and then having no public phones on which to
5 make a call is not a good thing. It is better to have a little
6 bit higher rate and have the phones out there when they are
7 needed. And payphones are needed not just by the poor, not
8 just in emergencies, but for all of us when we leave our
9 cell phone at home, when the battery is dead, many
10 circumstances still require the use of a payphone.

11 So if you look at the staff recommendation, you can
12 see our two-step proposal that we offered to adjust these
13 rates, again, over a nine-year period, to bring them closer to
14 a market-based scenario. You can also look in the staff's
15 recommendation on Page 14 where they give you the average rates
16 based on their own survey. And we would be okay with adoption
17 of those averages, as well.

18 We are not in here advocating removal of the rate
19 cap. A number of the parties have come in and said deregulate.
20 And, of course, you have to scratch your head whenever a
21 utility comes to you and says don't deregulate us, it's a
22 little counter-intuitive. But we were here to say rate caps
23 are still valid. We have operated -- I've operated phones in
24 states where the rate caps have been eliminated and what
25 happens is the rates go through the roof and customers are not

1 well served. And what happens is they don't make the calls.
2 They just find another way or just don't make their calls.

3 And so we think a reasonable balance of all of these
4 considerations is to adjust the rates. Staff has made a good
5 faith proposal in that direction. We're asking you and the
6 staff to consider something more than that. Because if you
7 want to make a difference here, 75 cents a call is not going to
8 do it; there are not that many of these calls left. And a
9 couple of bucks will make a difference. You know, a payphone
10 owner today looks very carefully at that bottom line to see
11 whether they can keep the phone out there. And the difference
12 in a few dollars on the phone can make the difference between a
13 phone staying and being pulled.

14 In '99 we had about 120,000 phones in the state. We
15 are down to about twenty now. And I know for all of our sakes
16 when we need a phone, we don't want to be going out there
17 looking around and not being able to find one. And paying a
18 couple of dollars more is a far better alternative.

19 So we would ask you to consider either our proposal
20 or the average rates that the staff has found in their work,
21 and maintain the rate caps, but make them workable and make
22 them serve the public in the state of Florida.

23 Thank you for your consideration.

24 CHAIRMAN CARTER: Thank you.

25 Mr. Hatch, anything?

1 MR. HATCH: I'm just here to keep my client out of
2 trouble.

3 CHAIRMAN CARTER: You know, that's a good thing.
4 Commissioner Argenziano, you are recognized.

5 COMMISSIONER ARGENZIANO: Thank you.

6 Just a few questions. First of all, I understand why
7 payphones are needed. I understand what payphones do and who
8 uses them, but what I didn't hear from you is the basis, the
9 real basis for the need for the increase. Can you tell me why
10 you need the increase?

11 MR. RENARD: Yes.

12 Well, several things. First of all, payphones have
13 not been afforded the benefits that other areas of
14 telecommunications have experienced over the last ten years.
15 All the digitalization you have heard about, the cost savings
16 that go with that, it's not there for payphones. Payphones
17 still are a very labor-intensive business. People have to go
18 out and collect them, physically maintain them. It is
19 effectively a computer out in the public domain that requires
20 tremendous attention to keep it working and keep it clean and
21 keep it working well. I don't need to tell you what has
22 happened to gas prices. Payphone owners have to drive around.
23 Their technicians or in many cases the moms and pops that still
24 run these businesses have to drive around and the gas alone has
25 been a tremendous increase. Labor, just think what has

1 happened to labor over the last ten years.

2 The things that make a payphone work have not really
3 experienced some of the drops of other high-tech aspects that
4 telecom have experienced. So you have got a very high cost
5 factor there. And what you do is you look at your call traffic
6 to cover your costs. And in the old days, you may have had 20
7 or 30 of the calls that we are considering here per phone per
8 month. That number has dropped to one or two. So the volumes
9 are down, the costs are still up. And when you do the math,
10 although we did not submit formal cost studies in this case, we
11 thought that was difficult and burdensome for everyone
12 concerned -- I am here to tell you that, you know, we had 1,200
13 providers in Florida, now you have 200. Something is very
14 seriously wrong with this picture. Between the drop in
15 providers, the drop in numbers of phones, something needs to be
16 done to keep these phones out there.

17 COMMISSIONER ARGENZIANO: Well, isn't part of that
18 drop because of new technologies and part of the drop -- aren't
19 we talking about using hotel phones also and operator assisted,
20 because if I go to a hotel room, I be darned if I'm going to
21 use their phone when the costs are so high now. And I don't
22 understand -- I understood competition years ago. When
23 competition really came to my ears that we need to have
24 competition, it was to reduce prices. And I have only seen --
25 you say it is competitive, and I have only seen the prices go

1 up, not go down.

2 So part of the user -- I mean, I know as you said
3 before that the most disadvantaged sometimes may be needing
4 that payphone. But at the same time, if it the most
5 disadvantaged, if you are adding dollars to that, I think you
6 are turning more people away from using the payphone. So I
7 kind of -- I'm trying to listen to what you are saying, but I
8 am listening to my own head that says there are certain things
9 that are not logical here, and I don't know how increased
10 prices will bring the most disadvantaged to the payphone.

11 MR. RENARD: Let me respond. First of all, the hotel
12 setting -- and staff did a good job in differentiating these
13 segments. With the hotel, the hotel can and does put a
14 surcharge -- I won't call it a phone charge -- on their bill.
15 They can recover the cost of their equipment through other
16 means on their bills. The payphone owner does not have that
17 option. This is the only business, the only revenue for them.

18 COMMISSIONER ARGENZIANO: In the hotel scenario, is
19 somebody going out and spending gas to go and collect the
20 money?

21 MR. RENARD: Typically in a hotel, if we are talking
22 about the room phones in a hotel, there is no coin involved, so
23 there is no collection.

24 COMMISSIONER ARGENZIANO: Right. Of course, that is
25 my point, that there is no collection cost.

1 Is there an amount -- can you tell me the amount of
2 payphones versus the amount of hotel phones in the state of
3 Florida?

4 MR. RENARD: I don't have those figures,
5 Commissioner. I can say that as many hotels as there are,
6 there are phones in those rooms. It's viewed as an amenity of
7 the hotel, like the other amenities in the hotel.

8 COMMISSIONER ARGENZIANO: So then the majority of the
9 phones that we are talking about are probably in hotels and not
10 on street corners anymore.

11 MR. RENARD: Well, for folks that are staying in
12 hotels, they certainly have phones in the hotels to use. The
13 payphone is a completely different animal, and they really
14 should not be grouped together logically in any sense of the
15 word. Because a payphone is there for visitors to the state,
16 folks that are driving through, folks that are homeless, folks
17 that can't afford a phone at home and are using this as their
18 lifeline. Very different than the guest at a hotel who is
19 using the telephone in the hotel as an amenity.

20 You know, in terms of the price and drawing folks to
21 the phone, again, it's a question of are we going to provide
22 the payphone owner the financial means to keep the phone there.
23 If we have low rates, but we have no phone there, have we
24 really served the public well? I don't think so.

25 So I was saying, Commissioner, you know, if you have

1 got a lower rate, but you have no phone there to make the call,
2 that does not serve our most disadvantaged citizens. You have
3 to have a reasonable level to enable the phone to be there.
4 Now, this is not the be all and end all panacea to keeping the
5 payphone base intact in Florida, but it is one thing that you
6 can do to make a little bit of a difference in having more
7 phones available.

8 COMMISSIONER ARGENZIANO: But it's my understanding
9 that what we have in front of us would increase the rates in
10 hotels as well as payphones.

11 MR. RENARD: I would defer to staff on that. I'm not
12 certain of that.

13 MR. KENNEDY: That's correct, it would increase the
14 rates in both places.

15 COMMISSIONER ARGENZIANO: So then while you are
16 speaking to payphones, we're also talking about an increase in
17 hotel rooms. And I guess what I was asking for the basis is
18 why should that increase now? What has changed to make that
19 increase?

20 MR. RENARD: Well, there are two things.

21 One is we have suggested a mechanism to address this,
22 which is what we call a set use fee. When this Commission
23 first set the rate caps for payphones in Florida, you had a
24 dollar per call set use fee. Recognizing that in a hotel the
25 hotel can bill you on your hotel bill to recover the cost of

1 their phone equipment in the hotel. A payphone provider does
2 not have that option. This Commission put in a dollar set use
3 fee to pay for that extra cost of running the equipment back
4 then. It fell away over the years.

5 If the Commission wants to have a uniform cap between
6 payphones and hotel phones -- and I think that's a mistake.
7 Hotel phones are an amenity for people who could first afford
8 to be in a hotel and then have a phone to use there. Payphones
9 are not of that nature at all.

10 But if you want to have a cap that is uniform, one
11 way you can handle it is to simply reinstitute the payphone set
12 use fee that this Commission had in an earlier point in its
13 history, and we propose that as an alternative to staff.

14 COMMISSIONER ARGENZIANO: Thank you.

15 If I could ask staff, why are we raising rates in
16 hotels? I understand that payphones are trying to survive and
17 whoever wants to pay the addition to keep pay phones, because
18 it is really hard to find a payphone nowadays, but why is there
19 also included in the hotel, and can that be segregated?

20 MR. KENNEDY: The reason we did it, I suppose I can
21 answer that, is it is customary that we did charge -- I mean,
22 the rates that we proposed were the same for all three
23 locations historically; and, quite frankly, we didn't consider
24 breaking those out separately.

25 COMMISSIONER ARGENZIANO: Mr. Chairman, what I'm

1 having a hard time figuring out is why we are giving this
2 increase -- I can understand more with the payphones, but I
3 can't understand just because -- I think what you just said to
4 me is because we have always done it that way, that is the way
5 we are going to do it.

6 Is there a need right now to increase? The hotels or
7 the users -- the phone operators for the hotels, are they
8 saying that it is costing us more now than it did before? Are
9 we just going to give them a raise because --

10 MR. KENNEDY: Yes, there is. Several responders do
11 exactly that business. Now, these are zero-plus calls that we
12 are talking about from hotels that are not billed that you pay
13 at the front desk. They are billed to -- if you call collect,
14 it's billed to who receives the call or you put it on your
15 credit card. So the hotel does not add anything to those type
16 calls, zero-plus calls, and their costs have gone up for their
17 billing and what have you. So just look at the cost of living
18 increase, adding all of that in, it seemed fair to raise the
19 rates for them as well, because they have been the same for ten
20 years, and they have had no increases but have had increases in
21 cost, for example, their billing.

22 COMMISSIONER ARGENZIANO: That's what I would like to
23 know more about, their increases in their costs, because their
24 costs right now are higher than anyplace else. If you use a
25 zero-plus, usually what you are doing is using your own access

1 card and you are talking about those people who get that phone
2 call to where you want it to go getting the increase, is that
3 correct?

4 MR. KENNEDY: No. If you use your access card that
5 would be considered a different type of call.

6 COMMISSIONER ARGENZIANO: Isn't that a zero-plus?

7 MR. KENNEDY: No, it's dial around. We do not have
8 any rate caps on those.

9 COMMISSIONER ARGENZIANO: Then who is asking for the
10 increase for hotel rooms, let's say?

11 MR. KENNEDY: The operator service provider that
12 actually provides the service.

13 COMMISSIONER ARGENZIANO: Okay. And their costs have
14 increased to use what, access lines?

15 MR. KENNEDY: It has increased for their billing
16 costs, their labor costs, their own personnel office, overhead.

17 COMMISSIONER ARGENZIANO: But when you use -- and,
18 excuse me, when you use a hotel phone, everyone knows you are
19 going to pay -- whether the hotel adds a fee onto that or not,
20 even if you are using the zero-plus, usually it costs you a lot
21 more to use that phone than anybody else.

22 MR. KENNEDY: No, ma'am, it's capped.

23 COMMISSIONER ARGENZIANO: That's how it has been for
24 me. I have stayed in a bunch of hotels.

25 MR. KENNEDY: Well, they shouldn't have done that.

1 The caps have been in place for many years. So for a zero-plus
2 call, we do have caps that cover that.

3 MR. MOSES: Commissioner Argenziano, this is Rick
4 Moses.

5 One difference I think was the dialing pattern that
6 you are speaking of in the hotel rooms. If you do a one-plus
7 call out of the hotel room, they are going to add a significant
8 surcharge, usually sometimes up to 20 or 25 percent, and that's
9 the higher rates that you're looking at.

10 COMMISSIONER ARGENZIANO: I know that. I wouldn't do
11 that because of the cost. I have used zero-plus and the costs
12 are high.

13 MR. MOSES: And the other option is if you use a dial
14 around such as an 800 number, or the 1-800 AT&T type of dial
15 around, that's outside of what we are speaking of here. It's
16 not under the rate cap rule at all, and those sometimes are
17 significantly higher, depending on the operator service
18 provider you're using.

19 The other thing is there are payphones in the hotel
20 as well that the people can use. And if this rate cap stays in
21 effect it may be a cheaper option for them just to use the
22 presubscribed carrier.

23 MR. KENNEDY: If you were charged more than what our
24 rate caps have been for the zero-plus from a hotel room, you
25 were mischarged and they should have not charged you more than

1 our rate caps.

2 COMMISSIONER ARGENZIANO: How does a hotel customer
3 start to understand the differences in these phone calls?
4 Because everybody pretty much, they don't even touch the hotel
5 telephone anymore, they use their cell phone. And I guess what
6 I'm not hearing is a real basis for the increase. And at this
7 time I don't -- I guess you have explained it enough, and I
8 have read it, and I just maybe don't agree. I appreciate it.

9 CHAIRMAN CARTER: Thank you.

10 Commissioner McMurrian.

11 COMMISSIONER McMURRIAN: Thank you.

12 I think my questions go to some of what Mr. Renard
13 was talking about with his step one and step two proposals.
14 One of the things I wanted to understand better is you
15 recommend a different rate for the operator charge depending on
16 whether it is automated or live. And I don't think staff's
17 recommendation -- I don't think it accounts for that. But I
18 wanted to understand better how you -- if you use a payphone,
19 how do you get the automated or the live, or does it depend on
20 which the company offers? I want to understand that better.
21 Do you have a choice as a customer or is it the company's
22 choice?

23 MR. RENARD: There is both the company choice and a
24 customer choice. And the companies do it differently, but
25 typically if you just hit zero, in many cases, although not

1 all, you will get a live operator. If you dial zero plus the
2 number, it often will go to an automated system. But virtually
3 all systems, and I believe this is an FCC requirement when you
4 are dealing with zero calls, you know, it's hard to
5 differentiate inter and intrastate because you're just dialing
6 the same thing, zero at the phone. I believe there has to be
7 an option for customers to be able to get to a live operator,
8 at a minimum to be able to get the rate information, you know,
9 for the call.

10 COMMISSIONER McMURRIAN: Okay. So your argument
11 would be that if you have to have that option for a live
12 operator that would obviously cost more.

13 MR. RENARD: Yes. Commissioner, we did not actually
14 propose the differentiation. We just had a blanket suggestion.
15 I believe MCIC, who is an operator service provider, offered
16 that distinction between live operator and automated, and that
17 is not an invalid distinction at all. If you have a live
18 operator you are incurring the labor costs of that operator and
19 it is a much more expensive cost basis than using an automated
20 system.

21 So, you know, we didn't want to get the Commission
22 too far into the weeds on so many different variations on this
23 thing, although it's not invalid at all to want to explore
24 that. That is something we could work with, Commissioner.

25 COMMISSIONER McMURRIAN: I misunderstood that,

1 because with the staff rec I thought that it was what FPTA
2 recommended, what you all recommended. But beyond that, too,
3 with regards to your step one and step two, why is it important
4 from your standpoint for the Commission to put in steps now
5 anyway? Wouldn't it be just as easy to try to get a number
6 right now and then come back at some future time if you have
7 still got a problem?

8 MR. RENARD: Yes, Commissioner. And this is a couple
9 of years ago that we put this in now. So things have gotten,
10 you know, even more difficult over this time, and that is why
11 we looked at, you know, staff's information in coming up with
12 an average rate there on Page 14. And those averages we think
13 reflect the market. They are reasonable. They are not some,
14 you know, huge increase in some of the states where it has been
15 deregulated you might have \$20 in there, and that's not
16 something we support. But rates in those range, we believe,
17 are very acceptable to customers. It could be adopted as a
18 one-step proposition and not have to fool with it again, and we
19 would be fine with that.

20 COMMISSIONER McMURRIAN: Okay. And to follow up on
21 your dialogue with Commissioner Argenziano, as well, you
22 wouldn't have a problem with there being a differentiation
23 between payphones and the other aggregators like the hotels?

24 MR. RENARD: Not at all.

25 COMMISSIONER McMURRIAN: Obviously you are concerned

1 about the payphone side.

2 MR. RENARD: Yes. And not to say that you don't want
3 to have reasonable and quality service, you know, phone service
4 for those that wish to use them in hotels. But, again, hotels,
5 the folks that are using them, they have the means to be able
6 to get into the hotel and stay at the hotel, so that we are not
7 talking about our economically disadvantaged homeless people.
8 We're talking about patrons of a hotel. And typically they
9 have choices. And so, you know, we think that their needs from
10 a legal perspective, you should have a fair rate that allows a
11 hotel owner to recover the reasonable costs of their equipment
12 in providing those services, but it is a different equation
13 with a different level of intensity than you have with a phone
14 out on the street that has nothing to do with any other
15 business or any other establishment, and we would be fine with
16 differentiating the two.

17 COMMISSIONER McMURRIAN: I think so. And I guess to
18 sort of follow up on that, too, and I think staff said they
19 just hadn't thought about breaking it out, but maybe a good
20 question for anyone, for AT&T or for staff, is what would be
21 the implications of breaking it apart like that. Are there any
22 things that we need to consider?

23 MR. GREER: Commissioner, Stan Greer with AT&T.

24 It would create some difficulty with us because of
25 the fact of what you would have to do is identify -- somehow

1 identify a call aggregator separately than you do payphones and
2 separately than you do inmate facilities. One of our whole
3 efforts of this whole process is to try to somewhat streamline
4 our operations and operator services so that we can focus more
5 on the provisions of operator services instead of trying to put
6 things in our system so that, you know, we can handle this cap
7 for this, this cap for that, and this cap for another type of
8 scenario. It creates some issues with us as far as getting
9 more buckets, if you will, to try to set different caps for.
10 That's probably one of the reasons why it has always been -- we
11 kind of kept them altogether.

12 We think call aggregator scenarios, as Mr. Renard had
13 pointed out, is very competitive. They have all kinds of
14 alternatives, in addition to going down and using the payphone.
15 I'm kind of like Commissioner Argenziano, I'm always afraid to
16 touch the phone in the hotel.

17 COMMISSIONER McMURRIAN: Okay. And I guess if staff
18 wanted to add to that.

19 MR. KENNEDY: I'm not sure about, you know, how
20 difficult it is to distinguish a hotel call from a payphone
21 because they have to distinguish payphone calls anyhow.
22 Technically it has some lead word on it, or on the front end
23 and something is transmitted where they can distinguish it.
24 But they are the experts on that, not me.

25 The operator services provider that's providing a

1 call from a hotel or from a payphone, the operator services
2 provider's costs, I would think, would be generally the same.
3 You know, they have a switch somewhere that is dialed into.
4 And whether it comes from a payphone or it comes from a hotel,
5 I think their costs would be about the same. I don't think
6 there is any difference.

7 Maybe the difference could be the amount of
8 commission they share with a hotel versus the payphone.
9 Certainly a hotel would be more lucrative, assuming there are
10 more calls, zero plus calls from hotels than payphones.

11 COMMISSIONER McMURRIAN: That's all for now,
12 Mr. Chairman. Thank you.

13 CHAIRMAN CARTER: Commissioner Skop.

14 COMMISSIONER SKOP: Thank you, Mr. Chairman.

15 Just following up on a quick question, I guess, to
16 staff in relation to the hotel topic that came up. With
17 respect to the hotel room versus the payphone, would it be
18 correct to understand -- I guess there are different dialing
19 methodologies. You can do the zero plus which, you know, takes
20 you to an operator service provider, or you could do the direct
21 dial in which case I think that the hotel serves as the
22 telephone carrier to the extent that they add a significant
23 surcharge. So I guess the difference that I need to have a
24 better understanding of would be the zero plus versus the
25 9-1-area code, plus the number, which I think the hotel does.

1 And I want to make sure that I correctly understand that they
2 are not one in the same and there are different, perhaps, rates
3 that apply to each of those respective services.

4 The next thing I need to straighten out is when we
5 are talking about hotel and payphones, whether the hotel in the
6 room is, in fact, functionally equivalent to a payphone in the
7 lobby in the manner in which these rates operate. So, again,
8 it's a little bit confusing, but I'm trying to flesh out the
9 zero plus versus direct dialing from the room where you go
10 through maybe the hotel switchboard, 9-1, the area code plus
11 the number.

12 MR. KENNEDY: Right. If you dial a 9 plus 1 in the
13 room you are going to be billed the rates plus the hotel
14 surcharge, and those are the expensive calls. With zero-plus
15 you are going to be billed the rates that are in our current
16 rules. Theoretically no more, unless they are just beating the
17 public. The same way with the payphone.

18 COMMISSIONER SKOP: So can I stop you there. So in
19 that sense, the zero-plus option, even if the rates went up
20 incrementally or stayed the same, it's not the most -- it is
21 probably the more cost-effective option than a direct dial from
22 your hotel room.

23 MR. KENNEDY: That's correct.

24 COMMISSIONER SKOP: Okay. But from a payphone in the
25 lobby, you would not be able to do the same direct dial to the

1 extent that the telephone switchboard would not be involved, is
2 that --

3 MR. KENNEDY: No. If you dial one-plus from a
4 payphone, you are going to be putting coins in the box.

5 COMMISSIONER SKOP: Okay. That's what I needed to
6 get a little bit of clarification of. And then a question for
7 Mr. Renard. When you mentioned a payphone set use fee, can you
8 explain that just a little bit more?

9 MR. RENARD: Certainly, Commissioner.

10 COMMISSIONER SKOP: I don't think I was here back
11 then.

12 MR. RENARD: I was.

13 And what it was was this, and let's stay with this
14 hotel versus payphone distinction, in a hotel, the hotel owner
15 has a cost of putting that phone system in the hotel. And
16 early on what you saw was on your hotel bill, apart from, you
17 know, your credit card charge that you might have for your
18 phone calls from the room, there often was and certainly could
19 be a charge on that hotel bill as a phone system recovery
20 charge. They called it lots of different things. But there
21 was a way for them to build into their costs either in the cost
22 of the room or in a surcharge on the hotel bill the cost of
23 that equipment.

24 There is no such thing, there is no billing
25 relationship with a payphone user. Typically it's that any

1 member of the public walks up to the phone and uses it. So the
2 Commission said, look, if we are going to have a set of OSP,
3 which is operator service rate caps, and those caps are going
4 to be applicable whether you are calling from your home or a
5 friend's home, you know, you could you walk into your friend's
6 house and dial in your MCI card and make a call, that way your
7 operator service rate caps will apply.

8 In those situations there is no increment provided
9 for in the rate structure to allow for recovery of the
10 equipment in the case of a payphone. So the Commission said,
11 you know, to make this work, we will have a payphone set use
12 fee, and that is going to be the fee to recover the cost of the
13 equipment itself apart from the operator service portion, which
14 is the actual transmission and billing and handling of the
15 call. So does that make sense?

16 COMMISSIONER SKOP: It does. That's what I thought I
17 had heard. Just apparently that had changed over time and we
18 had gone to a different structure for cost-recovery of those
19 operator services and the capital costs of the phone itself.

20 Just two more follow-up questions. First, I think
21 you cited federal law, Federal Statute 276 of the
22 Telecommunication Act that requires payphones. If that act
23 indeed requires payphones to be readily available, why do we
24 see such a reduction of payphones within the state.

25 MR. RENARD: That's a very good question,

1 Commissioner, and it does say that it is the law of the land to
2 promote the widespread deployment of payphones. The other
3 thing it says is that payphones have to be allowed to earn a
4 fair compensation, quote, unquote, fair compensation on each
5 and every interstate and intrastate call. That's in the law,
6 that's there.

7 The reason we have seen the drop is because there has
8 been such a growth in wireless service, and the wireless
9 service has taken away so much of the call volumes from
10 payphones that the phones, the number of phones have dropped.
11 We have come to this Commission at various times requesting
12 some help, you know, in getting Lifeline type support or
13 maintenance of the payphone base out there. It has been a very
14 tough nut. You know, it just doesn't fit easily into the
15 existing structure for Lifeline and universal service, so we
16 have not been able to accomplish that.

17 But what's happening is we have got this law of the
18 land that says keep payphones available for folks, and yet as
19 you say, we have had this dramatic drop in the numbers of
20 phones. So, you know, one of the reasons we are taking your
21 time today with this is to say you can help fulfill the law of
22 the land and the public interest in the state of Florida by
23 giving a little bit of revenue to these payphone providers who
24 these days mostly are mom and pop providers. You know, AT&T is
25 no longer in the business. Many other of the large companies

1 have exited the payphone business. So you have mom and pops
2 doing most of this in the state, and they're dropping like
3 flies. I mean, that is the reality of it.

4 So here is a way you can give a few bucks to these
5 folks to say, you know, we care about payphones. First of all,
6 send them a signal that you even think about them and care
7 about them, and maybe help keep a few more phones out there for
8 the public.

9 Now, admittedly, we don't want the rates to be high.
10 You know, that's sort of -- you know, as Commissioner
11 Argenziano pointed out very aptly, that doesn't sound like
12 competition and benefiting the most disadvantaged. But the
13 reality is if we don't do something like that, either in this
14 rate situation, or, you know, work with us to reduce the line
15 charges which remain, especially in the small LEC areas, very
16 high in the state today, or get some kind of support going in a
17 universal service context, these phones -- it's just going to
18 get worse and worse, and then the day is going to come when we
19 have an emergency and all of us are going to need these things,
20 and we are going to go, oh, my God, what did we let happen
21 here.

22 COMMISSIONER SKOP: Two additional questions. If we
23 can go to Page 6 of the staff recommendation, the overview of
24 the current and proposed rate cap chart that's provided there,
25 looking at the bottom half of that chart for inmate facilities,

1 staff has recommended that the proposed caps remain exactly the
2 same as they currently are. Would it be correct, and I would
3 like to hear a response from AT&T as well as Mr. Renard, would
4 it be correct to understand that with respect to the inmate
5 facilities there's significant revenue sharing that occurs
6 between the correctional facility and the payphone provider in
7 both of those instances?

8 MR. RENARD: Yes. It varies. I mean, you have --
9 these inmates services, some payphone providers are in the
10 inmate services business, some folks are out there just in that
11 business. It is a different business than the payphone
12 business. They have, in the truest sense of the word, a
13 captive audience. There are no cell phones allowed in the
14 prison. The call volumes are very substantial. So, you know,
15 I think you have gotten some feedback from the inmate provider
16 community that they can live with these types of rates.

17 Now, I do think there are some questions about the
18 other charges that are, you know, eliminated, many of which
19 probably should be eliminated, but some probably, again, for
20 that cost of equipment recovery need to be there.

21 COMMISSIONER SKOP: Let me just get to my point.
22 It's getting a little bit longer than I wanted it to be for
23 inmate facilities, but just a quick answer. I guess what I'm
24 saying is if there is such a significant revenue sharing that
25 occurs between the provider and sharing, you know, up to, in

1 some cases, maybe fifty percent of the revenue for those calls
2 with the correctional facility, then certainly, you know, that
3 would indicate to me that people are able to make a go of it
4 for what they are receiving as well as share revenues, then the
5 prices are probably appropriate and should not change for
6 inmate facilities. Would you agree with that?

7 MR. RENARD: Well, let me say first in the payphone
8 world the commissions have all but gone away. So what you have
9 pointed out in the inmate world, you know, you don't have that
10 revenue sharing as you used to. So that's on that side. On
11 the inmate side, let me say it's debatable that the fact that
12 inmate --

13 COMMISSIONER SKOP: Just looking for a yes or no that
14 there is significant revenue sharing on the payphones, and then
15 we will move on.

16 MR. RENARD: My understanding, and AT&T can embellish
17 this, is it varies dramatically from -- some facilities, little
18 to no revenue sharing, some more significant. So it is
19 difficult really, Commissioner, to say a blanket yes or no.

20 COMMISSIONER SKOP: Fair enough.

21 MR. GREER: Commissioner, AT&T doesn't provide the
22 operator services to inmate facilities. And as Mr. Renard
23 pointed out, we got out of the payphone business several years
24 ago.

25 COMMISSIONER SKOP: Okay. Let's move on to the

1 payphone itself with respect to the proposed caps. Again, I
2 have views that I will share in a moment on inmate facilities,
3 but with respect to the pay telephone and call aggregator
4 proposed capped rates, what would AT&T, and Mr. Renard, based
5 on the staff recommendation, you suggest as a reasonable
6 alternative?

7 MR. GREER: Commissioner, as far as AT&T is
8 concerned, it is my understanding that the staff has taken the
9 cap that they have proposed from our other states which are
10 essentially a market rate, because that's what we have. I
11 think what we are more focused on is the structure that that
12 market rate may change, but at this given point I don't think
13 we have a big issue as far as the rate amounts they have
14 proposed.

15 COMMISSIONER SKOP: Okay. So AT&T would be
16 comfortable with the proposed caps for the pay telephone and
17 call aggregator?

18 MR. GREER: Yes.

19 MR. RENARD: And from a payphone perspective, of
20 course, they are not in the payphone business anymore, we could
21 live with the average rates on Page 14 of the staff
22 recommendation in the last full paragraph there, it's the third
23 paragraph down, where they've got -- where they did their work
24 and found the average of 4.18 for a collect call, 4.74 for the
25 operator service call, and 8.53 for person to person. All of

1 those rates, to my understanding, are below the AT&T comparable
2 rates, certainly for interstate services; and I believe that
3 staff looked at ten jurisdictions, and these all fall, you
4 know, within the range that they found in those jurisdictions.
5 So if we are looking for an average rate cap, I think you have
6 got it right here.

7 COMMISSIONER SKOP: Thank you.

8 And I guess to my colleagues, again, I just want to
9 commend staff for their hard work on all of this. I guess
10 where I'm at is that to me, I would not be in support of
11 changing the rates for the inmate facility. I think that staff
12 has recommended keeping those numbers constant is a good thing.
13 Again, we need to provide telephone access to those that are
14 incarcerated so they can contact their families, and maybe
15 least able to afford such services. Again, as has been duly
16 pointed out, you can't use the cell phone in county jail or
17 prison or what have you. With respect to the proposed caps for
18 payphones, again, I'm more openminded and I would like to hear
19 from my colleagues.

20 CHAIRMAN CARTER: Thank you.

21 Commissioner Argenziano and then Commissioner
22 McMurrian.

23 Commissioner Argenziano, you're recognized.

24 COMMISSIONER ARGENZIANO: Thank you.

25 Just a couple of questions. One, although AT&T says

1 they are not in the business of payphones, you do own companies
2 that provide that service, is that correct?

3 MR. HATCH: It's my understanding, Commissioner
4 Argenziano, we don't own companies that provide either payphone
5 service or inmate service any longer. We got out of that
6 business.

7 COMMISSIONER ARGENZIANO: Just recently?

8 MR. HATCH: To my understanding, we haven't been in
9 the inmate business since 2005. Payphones were before that.

10 COMMISSIONER ARGENZIANO: And to staff, if you
11 would --

12 MR. HATCH: There may be someplace in the country
13 where that staggered dates that I'm unaware of, but at least as
14 far as Florida is concerned, I believe those are accurate
15 dates.

16 COMMISSIONER ARGENZIANO: I was just under the
17 understanding that you owned companies that provided the
18 payphone service. I don't know whether it was just inmates.

19 MR. HATCH: No longer. Not for quite sometime.

20 COMMISSIONER ARGENZIANO: Okay. And to staff, is
21 there a cost justification? I understand the payphones. I
22 would like to know if there is a cost justification for raising
23 the rates somewhere in all of this. I haven't found one. I
24 like to look at details.

25 MR. KENNEDY: I understand. There's a company in

1 Texas, I won't mention its name, they particularly provide
2 hotel zero-plus services, and the fellow sent me his costs for
3 his billing. He goes through a third-party biller who then
4 puts the charge on a LEC bill. His charge, I don't remember
5 the exact pennies that it was, but his charge for the LEC cost
6 had gone up significantly over the years.

7 And he kind of begged me in a way that one dollar, if
8 he could get one dollar more per call that that would cover his
9 costs and keep his margins about the same as he has had over
10 the years. And so his costs are actually the billing charges
11 from the LEC, the billing clearinghouse charges with the
12 middleman are not that expensive, they are just pennies per
13 record. And then, of course, his own labor, overhead costs.

14 COMMISSIONER ARGENZIANO: So what you are using is
15 this fellow's information. There is no cost justification in
16 here that I can really look at to say what has gone up and what
17 hasn't in making a decision?

18 MR. KENNEDY: Several people responded about their
19 costs going up, but when we looked at the cost detail on the
20 telecom part of it, like the per minute, you know, the cost to
21 actually carry a call, those haven't increased that much. It
22 is mostly the handling, billing, labor, and what have you.
23 But, no, we don't have that information.

24 COMMISSIONER ARGENZIANO: I'm just being consistent
25 to where I was before, looking for cost justification according

1 to the statute. Okay. Thank you.

2 CHAIRMAN CARTER: Commissioner McMurrin.

3 COMMISSIONER McMURRIAN: Thank you.

4 I wanted to go back to the set use fee for a minute
5 that Commissioner Skop raised. And I had forgotten to raise
6 that earlier, so thank you, Commissioner Skop.

7 I wanted to ask AT&T about that. I mean, earlier you
8 said that with respect to trying to identify call aggregators
9 separately, that there would be some additional cost, or I
10 guess inconvenience at least for you all in dealing with that.
11 If the Commission were to, in a way, differentiate between the
12 call aggregators by saying all the call aggregators except pay
13 telephones -- well, actually, all of them have the rates that
14 may be proposed here, for instance, but then a set use fee on
15 top of that.

16 Does the set use fee give you the same kind of
17 concerns about how you manage the call aggregator part on your
18 end, or would that be completely different? I mean, if we were
19 looking for a way to address the payphone issues separately
20 from the hotel and other call aggregators.

21 MR. GREER: You mean as far as applying a set use fee
22 to a hotel or to a call aggregator type similar to the way --

23 COMMISSIONER McMURRIAN: Just the payphone side.

24 MR. GREER: Just on the payphone side? Well,
25 generally, if I recall right --

1 COMMISSIONER McMURRIAN: It goes directly to the
2 payphone provider, I think.

3 MR. GREER: Yes, if I recall right.

4 COMMISSIONER McMURRIAN: So does that have any impact
5 on AT&T at all?

6 MR. GREER: I imagine it would, since we are going to
7 have to pass the amount onto -- I just don't know. I would
8 have to go back and look. I mean, clearly I think we used to
9 do it, and so some of those things are probably still in place.
10 Maybe they are not, I don't know, but we used to handle a set
11 use fee prior to it going away however many years ago it was.

12 COMMISSIONER McMURRIAN: Just off the top, and I will
13 let Mr. Renard address that, too. But it just seems like just
14 off the top of my head, if we were looking for a way to address
15 that industry's problem, noting what we have talked about with
16 hotels and the other call aggregator people, that may be an
17 easier way to do it and have less impact, perhaps, than the
18 others, I just don't know. And I don't know what the basis for
19 the dollar would be. I am not sure if that is just because
20 that is what we used to use, should it be a dollar, but perhaps
21 there is some way to use that.

22 MR. MOSES: Commissioner McMurrrian, maybe I can
23 clarify.

24 COMMISSIONER McMURRIAN: Sure.

25 MR. MOSES: That set use fee used to be on there

1 prior to the federal act coming out and saying the payphone
2 providers will be compensated for each type of call. That was
3 a form of compensation. When they came out with that we
4 eliminated the set use fee because they were compensated for
5 these particular type calls through commissions, so it was a
6 duplicate compensation. So that's why it was eliminated in
7 that rulemaking.

8 COMMISSIONER McMURRIAN: What do you all think of
9 using that as a way to say the payphone providers have some
10 additional issues that the other call aggregators don't? I
11 mean, I see that you didn't recommend that, but maybe you can
12 share with me why.

13 MR. MOSES: I would suggest in lieu of a set use fee,
14 which gets even more complicated on the billing process, I
15 would recommend you raise the rates whatever amount that you
16 feel justified to do that compensation.

17 COMMISSIONER McMURRIAN: So you would think that,
18 like Mr. Renard's suggestion to use the average or something
19 for payphones would be better than trying to use a set use fee?

20 MR. MOSES: The more surcharges you get the more
21 complicated the billing process becomes.

22 COMMISSIONER McMURRIAN: I see nodding heads over on
23 the left side again. I guess I will go back to them.

24 MR. RENARD: If I may, the only cutback to that, and
25 Rick is exactly right, in a typical setting the thing we need

1 to remember, and this kind of goes to your earlier question to
2 AT&T, is the only operator service providers that will be
3 providing these calls from payphones are those that have a
4 contract with the payphone owner. So there is a relationship,
5 there is a contract. I think that structure, that fact, makes
6 it a little easier perhaps to deal with a varied rate
7 structure. Whether it's a surcharge or others, or the basic
8 rate, I think it's a little different than just an open-ended
9 call where there is no special contractual relationship between
10 the operator service provider and the payphone owner.

11 So my experience is we can handle, and they can
12 handle, and we have a number of members who are operator
13 service providers as adjunct members of the association, they
14 do this and they can handle it. It may be easier from a
15 customer perspective just to have a different rate structure.
16 I think what they are going to see ultimately, though, is the
17 bill for the call, however it's broken out. So I think you
18 have discretion to get there in either of those approaches.

19 COMMISSIONER McMURRIAN: Okay. And I think this
20 actually already came out. We were talking a minute ago about
21 the justification for the numbers in the chart. Well, staff's
22 recommended numbers, and these numbers are -- they line up with
23 what AT&T is charging. Well, are they charging it or what the
24 cap is now, because I know there is a difference in the charge
25 and the cap, too. I mean, this recommendation here, what we

1 would vote on would be to allow the cap to be higher. It
2 wouldn't necessarily raise any rates. It would just be up to
3 those providers, which I think they would raise them from what
4 we're hearing.

5 MR. GREER: Commissioner, I think Florida is the only
6 state in the southeast that has a cap. All of these are pretty
7 much essentially market rates in the other states.

8 COMMISSIONER McMURRIAN: Oh, that's right, you did
9 say that. Okay.

10 Would you like to add anything, Mr. Kennedy?

11 MR. KENNEDY: No. I agree, that's what they are.

12 COMMISSIONER McMURRIAN: So a large part of the
13 basis, I guess, would be -- well, not necessarily the basis,
14 but you all did take into account that for a company like AT&T
15 that it may be easier to try to have a more uniform -- it might
16 make it easier for them to have a more uniform rate to apply
17 across their territory.

18 MR. KENNEDY: If you look at what everybody has asked
19 for, you know, we had no rates, no rate caps, and then we had
20 if you can't take them off, give us 90 cents a minute, a \$5
21 surcharge, or an \$8, or thereabouts. And we looked at what the
22 rates currently are, we looked at all the consumer price index
23 cost of living, applied those, and cost of living, CPI, PPI
24 indexes all fell slightly below what we're proposing. AT&T's
25 rates fell right in that window. Historically, when we had

1 rate caps that were not codified back in the mid-'90s, they
2 were the AT&T long distance rates we used as a cap. That's
3 what was codified in 1999. So the number looked good. It was
4 just slightly above the indexes, and quite well below, you
5 know, what they wanted. It seemed fair.

6 COMMISSIONER McMURRIAN: One follow up to that. How
7 did these compare -- and I think it's in here somewhere,
8 although I can't remember where. How did what our caps are
9 compare to what other states are doing?

10 MR. KENNEDY: We are lower. Many states have AT&T's
11 rates defined as a rate cap. Ours are lower.

12 COMMISSIONER McMURRIAN: Okay. And I'll just make
13 one other comment similar to what Commissioner Skop said. I
14 mean, I think I'm okay with what staff has recommended here.
15 You know, I would be willing to discuss maybe having slightly
16 higher rates for payphone providers, because I do think that
17 they have some issues that the others don't have as we have
18 talked about with hotels and things. You know, I think there
19 is more likely a better affordability with customers staying in
20 a hotel, and most of them are likely to have work-arounds
21 anyway. I know even before I carried a cell phone, I used the
22 calling cards to make calls from a hotel, and I didn't get a
23 charge. Sometimes there would be a dollar charge to make a
24 call, but frequently if you make an 800 call, I don't get
25 charged at all to do that if I used the calling card. And so

1 most of us, I think, have work-arounds.

2 But with the payphone providers, I hear what Mr.
3 Renard is saying, I'd be willing to talk about something
4 different for them. Also recognizing, though, what AT&T said
5 about making it somewhat more difficult for them to identify
6 between the call aggregators.

7 Thank you, Mr. Chairman.

8 CHAIRMAN CARTER: Thank you. Let's go to
9 Commissioner Edgar, then Commissioner Skop, and then back to
10 Commissioner Argenziano.

11 Commissioner Edgar, you're recognized.

12 COMMISSIONER EDGAR: Thank you, Mr. Chairman.

13 My question is more on procedure, and so I may look
14 to our General Counsel. I was just trying to think about, you
15 know, where we are procedurally with this, realizing that it is
16 a proposed rule amendment. And we've heard -- I think what
17 I've heard from my fellow Commissioners is some comfort,
18 generally, with parts of the proposed changes, and maybe a
19 desire for, perhaps, more information on the impacts and
20 justification for part.

21 So procedurally I'm just wondering -- I see that
22 there are no required dates for us to act on this, you know,
23 what our options would be to put forward a portion -- and I'm
24 just thinking through options, I'm not proposing one yet -- to
25 go ahead and move forward with the first rule, 24.516 is the

1 one that addressed just payphones, or if it makes more sense to
2 keep them together. I'm thinking probably -- I'm thinking out
3 loud, and then I will frame it in a question -- would maybe be
4 one possibility to, you know, defer action today with some
5 specific direction to our staff, perhaps, for some additional
6 cost justification information.

7 I know that the SERC seems a little skimpy, a little
8 spare, I would say. Some additional information in the SERC, I
9 think, would be helpful, quite frankly. And so I guess, Mr.
10 Imhof, realizing again that this is a proposed rule amendment,
11 what are our options to try to address some of the concerns
12 that are raised here? Again, I'm thinking perhaps a potential
13 deferral with direction to staff to reexamine pieces of it and
14 then bring back to us at whatever the staff would be
15 comfortable with, or to move forward with parts of it. Or, you
16 know, there is, of course, the opportunity once a rule is
17 proposed for additional comments. So, I'm just, again,
18 thinking out loud, but if you could maybe speak to us
19 procedurally.

20 MR. IMHOF: Yes. Procedurally, the first one, you
21 could defer it with directions, because there are no statutory
22 deadlines because the rule is not proposed. You could propose
23 the rule and people that are affected could request a hearing,
24 and then further action and further changes could be made at
25 that time. Staff does recommend to keep the issues together,

1 though, rather than to separate them.

2 COMMISSIONER EDGAR: The two rules that we are
3 inserting?

4 MR. IMHOF: Yes, ma'am.

5 COMMISSIONER EDGAR: Okay. I understand that. It
6 just looked like may be another potential option. Okay, good.
7 Thank you.

8 CHAIRMAN CARTER: Commissioner Skop and then
9 Commissioner Argenziano.

10 Commissioner Skop, you're recognized.

11 COMMISSIONER SKOP: Thank you, Mr. Chairman.

12 Just a quick question, two quick questions of staff.
13 With respect to the proposed caps on Page 6 of the staff
14 recommendation, would it be -- I guess my question would be do
15 those proposed caps apply to call aggregator locations?

16 MR. KENNEDY: Yes.

17 COMMISSIONER SKOP: And then with respect to the
18 difference between the nonperson-to-person and the
19 person-to-person charges in terms of the proposed \$2.50 versus
20 the \$5, can they explain the rationale a little bit for the
21 difference, relative difference between the operator charges
22 associated with each of those two calls?

23 MR. KENNEDY: Yes. The 2.50, those are primarily you
24 dial and you get a machine, no human intervention.
25 Person-to-person requires human intervention, so that's labor

1 intensive compared to the machine.

2 COMMISSIONER SKOP: And with respect to the proposed
3 caps in the operator charge, if I were a payphone owner and I
4 had one of the proposed caps, and I used the local rate for a
5 nonperson-to-person, that 2.50 charge would help subsidize the
6 cost of the payphone itself, is that a correct understanding?

7 MR. KENNEDY: Assuming that the payphone provider has
8 entered into an agreement, which I believe Mr. Renard said, I
9 would assume they would get commission, the payphone provider
10 should get a commission on that.

11 COMMISSIONER SKOP: All right. Thank you.

12 CHAIRMAN CARTER: Commissioner Argenziano.

13 COMMISSIONER ARGENZIANO: Thank you.

14 Just a couple of different questions. One to, I
15 guess, AT&T. On Page 7 it indicates under AT&T's petition if
16 the Commission is inclined to continue rate caps and AT&T
17 applied -- I'm sorry, and AT&T suggests that the rates should
18 be increased to reflect the market and that the rate cap should
19 not apply to all aggregator locations. First of all, it's my
20 understanding -- and maybe this is to staff -- that we are not
21 required by statute to keep a cap, to have a cap, is that
22 correct?

23 MR. BELLAK: It depends on which interpretation you
24 have of the statute. The way the Commission has always
25 interpreted the statute is that rate caps are required if they

1 are found to be in the public interest. And in this instance,
2 the staff has determined that it's in the public interest to
3 have a rate cap for the same reason that Mr. Renard advocated
4 the continuation of rate caps, and it's because of the effect
5 on the -- one would say innocent user, the person that
6 typically would use the payphone in an isolated instance and
7 find that a relatively brief phone calls ends up with a huge
8 bill.

9 COMMISSIONER ARGENZIANO: I understand under the
10 public interest, but there is no language that says we shall.
11 I mean, we can look at it under the public interest heading,
12 but I don't see any specific statutory language that says we
13 shall.

14 MR. MOSES: If you look at Subparagraph 3 of the
15 statute.

16 COMMISSIONER ARGENZIANO: Where?

17 MR. MOSES: 364.3376.

18 COMMISSIONER ARGENZIANO: Yep, I'm there. Where are
19 you?

20 MR. MOSES: It says for operator services, the
21 Commission shall establish maximum rates and charges for all
22 providers of such services within the state.

23 COMMISSIONER ARGENZIANO: For operator services.
24 Okay. But then how do you work that with the public interest
25 language that's there?

1 MR. BELLAK: Well, as I said at the outset, it
2 depends on how you interpret the statute. The Commission has
3 in the past interpreted the 1.(b) section of the statute where
4 it says that this section does not apply to operator services
5 provided by a local exchange telecommunications company, or by
6 an interstate interexchange telecommunications company except
7 as required by the Commission in the public interest to mean
8 that in the absence of a public interest finding you don't
9 apply the entire statutory section, and that would cancel out
10 Subsection 3.

11 However, my own interpretation of the statute differs
12 a little bit, because I read the statute in pari materia with
13 364.3375, which has very much the same verbiage except for one
14 word. It says in Section (b) -- right, it is in 1.(a), it says
15 that the certification provisions of this subsection do not
16 apply to a local exchange telecommunications company providing
17 pay telephone service. That makes me suspicious that the word
18 section in .3376 is a scrivener's error by the Legislature and
19 they actually meant subsection. And that, in fact, regardless
20 of the public interest, the Legislature intended that
21 Subsection 3 applies, and for operator services the Commission
22 shall establish maximum rates and charges for all providers of
23 such services within the state. Which would mean that we have
24 to have these caps unless somebody goes to the Legislature and
25 has them removed, but that is just my interpretation of the

1 statute.

2 COMMISSIONER ARGENZIANO: Okay. And one other
3 question. Actually, I guess, when is the last time that we did
4 one of the random compliance investigations of the operator
5 services?

6 MR. MOSES: We do those frequently at the pay
7 telephone locations when we are out in the field looking at the
8 locations. I think the last one we did is probably six months
9 ago, though.

10 COMMISSIONER ARGENZIANO: Was that just pay
11 telephones?

12 MR. MOSES: That's where we normally have made the
13 calls. We haven't made any calls from hotels, although when
14 they are in the field and staying in hotels, we could do that.

15 COMMISSIONER ARGENZIANO: Well, they would charge you
16 too much, so I wouldn't do it.

17 MR. MOSES: We would get them to write it off.

18 COMMISSIONER ARGENZIANO: Okay. And I guess the only
19 other thing that -- I mean, I see since the law of the land is
20 that payphones need to be, need to exist, and the use of them
21 is getting less and less, that, you know, we need to continue
22 helping them to exist. So I understand that. I'm still having
23 a hard time with cost justification for the increase for
24 anyplace else. And it may be very well that it is justified,
25 it's just not seeing it and knowing that you got a letter from

1 a fellow really doesn't do me any good. I would hope that we
2 did a better justification than just -- and I mean this with
3 all due respect, you have to understand where I'm coming from,
4 it's just a letter from a fellow who said his costs are going
5 up. Has anything been checked on? Did you check on those
6 numbers that the fellow gave you?

7 MR. KENNEDY: We asked, we actually asked in this
8 proceeding for cost information, and what you discover is the
9 costs varied tremendously between an AT&T who has their own
10 billing, you know, they do their own billing, versus the
11 company that's only specifically targeting the hotel industry.
12 And, they basically talked us out of it. They accused us of
13 trying to do rate base rate of return regulation, which I don't
14 think we can do. So we didn't study the cost to the detail
15 that you might expect us to, to be honest with you.

16 COMMISSIONER ARGENZIANO: With that, Mr. Chairman, I
17 don't feel comfortable myself. You all may have a different
18 point of view. I just don't feel comfortable. I understand
19 the payphones need help, and I'm there for that, but without a
20 cost justification, I just don't feel comfortable. I just feel
21 like saying, okay, somebody said they needed it, and I am here,
22 and I am just going to give it to them. So, without that, I
23 couldn't support it.

24 CHAIRMAN CARTER: Thank you.

25 I will go to Commissioner McMurrian and then

1 Commissioner Skop.

2 COMMISSIONER McMURRIAN: Thank you, Chairman.

3 And along those lines, I agree with Commissioner
4 Argenziano. Perhaps going back to what Commissioner Edgar
5 proposed about deferring, maybe there is some way, given the
6 discussion we have had here today, that you can go back to some
7 of those entities. And I realize that they are not necessarily
8 always forthcoming with the information that staff would like,
9 and they are being nice in not saying that, but we know that
10 that's -- we know that's some of the issue there. And, of
11 course, some of these entities that we are talking about our
12 jurisdiction of them is very small.

13 So I guess what I was thinking, too, if we do go down
14 the road of deferral, which seems like it might make sense
15 since there is no reason that this can't be deferred, that one
16 of the things I'd like to see is justification, as we have been
17 talking about with Commissioner Argenziano, but also with
18 respect to what I brought up about trying to address the
19 payphone providers concerns. I'd like both of them, both
20 parties that are here today, to explain a little bit better.
21 From AT&T, for instance, I'd like to hear a little bit more
22 about your difficulty and the cost ramifications of identifying
23 the call aggregators separately. If we were to try to do
24 something more for the payphone providers than the rest of the
25 call aggregators, how that really impacts you, and see a little

1 bit more in that area.

2 And then for Mr. Renard, I would think you could
3 explain why regardless of those costs and ramifications on
4 other providers, why it's in the public interest that we need
5 to do more for your providers anyway. I mean, I think that
6 that would give you both an opportunity to explain and try to
7 convince us more of why we need to do one thing or the other.

8 But, again, I think that that is probably a good
9 approach, given where we are today and the information that we
10 don't have. So, thank you, Chairman.

11 CHAIRMAN CARTER: Thank you.

12 Commissioner Skop.

13 COMMISSIONER SKOP: Thank you, Chairman Carter. Just
14 two quick follow-up questions.

15 The first one to staff. With respect to the volume
16 of calls that are placed, and I don't know if staff has this
17 information, but if we were to look, again, looking at the
18 proposed caps on Page 6 for the pay telephone call aggregators,
19 the volume of calls for the nonperson-to-person versus
20 person-to-person calls, is there a comparative volume
21 difference between those two type of calls that are placed?

22 MR. KENNEDY: All that we were told in response was
23 that person-to-person calls are rare. I think one company said
24 they had one in the whole year. So it's rarely used anymore.
25 So the volume differential has to be tremendous. I don't know

1 what it is, though.

2 COMMISSIONER SKOP: Okay. So in that regard, if one
3 was trying to look at ways -- because I think that my previous
4 question to staff was do the payphone providers share in the
5 compensation of the proposed rate caps, and I think the
6 question was affirmatively yes. So if there were a way to, you
7 know, encourage or stem the attrition of payphones within the
8 state, looking at a cap as a mechanism to do so, it would seem
9 to me that just merely a minor tweak of the nonperson-to-person
10 operator charge, to the extent that compensation is
11 proportional, directly proportional to volume of calls placed,
12 a minor tweak in that number might provide that additional
13 revenue stream that could, you know, again, subject to cost
14 justification, stem the removal rate of payphones from our
15 state. Is there any merit to that? For instance, if the 2.50
16 became a 2.75 as a proposed cap?

17 MR. KENNEDY: We would agree with that.

18 COMMISSIONER SKOP: I'm sorry, I could not hear.

19 MR. KENNEDY: I'm sorry. Yes, that would solve that
20 issue that you have before you there of payphone losses. In
21 contrast, you could also consider maybe leaving the hotel rates
22 the same as what the old rates are. I mean, we certainly have
23 had no objection to that.

24 CHAIRMAN CARTER: Okay. And then a quick question to
25 Mr. Renard. With respect to the effect of any slight proposed

1 increase, again subject to the appropriate justification as the
2 issue has been raised, how would -- I guess in terms of the --
3 on the availability of payphones throughout the state, would
4 that increase availability or at least stem the removal of
5 payphones?

6 MR. RENARD: Yes. Addressing that component, I think
7 you focused in on the one that really matters. I think adding
8 another quarter to it is not going to make a difference. I
9 think adding a dollar to it --

10 COMMISSIONER SKOP: Well, that may be getting a
11 little bit beyond my comfort level.

12 MR. RENARD: Let me suggest, Commissioner, that our
13 proposal was significantly more than a dollar to get it to
14 where it would truly make a difference. So I guess two things,
15 let me just share with you, one is time is of the essence for
16 the payphones. So if we are talking about a deferral, I would,
17 you know, beg you, basically, not to do something that is going
18 to drag this out further. This is an '06 docket. The rate has
19 been the same for nine years. We need to do something sooner
20 than later, please.

21 Secondly, the 2.50, which has been touted as the,
22 quote, AT&T benchmark rate, that is the rate that if you were
23 at your house and signed up with AT&T that you would pay. It
24 has no component whatsoever in it for the payphone equipment of
25 maintenance, the installation, the capital costs, all of that.

1 That is a rate that is from a residence where there is no
2 equipment involved as it is in payphone. So, when I say
3 another dollar, that is not an outrageous amount. This
4 Commission had the dollars in a set use fee in there years ago.

5 COMMISSIONER SKOP: But if I understood staff
6 correctly to understand that when they changed the rates at the
7 federal level that basically became compensatory to otherwise
8 replace, because it would be duplicative as staff has said
9 about the, I think, the payphone set use fee. I'm openminded.
10 Again, I have shown flexibility subject to proper justification
11 for increasing the nonperson-to-person operator charge
12 slightly. I do feel that the person-to-person rate is
13 appropriate. It has diminished call volume. So, again, it is
14 not going to move the needle in terms of what we are trying to
15 accomplish on behalf of public policy, but if we were looking
16 at something in terms of volume with the compensation or the
17 increased revenue being directly proportional to call volume,
18 then, again, a minor tweak to the nonperson-to-person rate
19 might help solve the systematic problem of payphones
20 disappearing from our state. Which, again, I've used
21 payphones, they can be expensive. If you are smart from a
22 consumer perspective, you put in four quarters you get four
23 minutes of long distance anywhere in the U.S. if you find the
24 right payphone.

25 So, again, I think it is about being prudent when you

1 use a phone, but it is also about providing consumers with
2 choice and availability, because not everyone in the world has
3 a cell phone today. But, again, you know, Commissioner Edgar
4 and Commissioner McMurrian have raised the issue of deferral to
5 collect some more information. I don't know how the Commission
6 would view that. I am open-minded to that. I appreciate your
7 position about that this has been lingering on the docket and
8 time may be of the essence for payphone providers, because,
9 again, I have seen reductions in payphones over the last few
10 years. They are hard to find these days.

11 The other thing I would just add is that, you know,
12 we have a crowded docket on a forward-going basis towards the
13 end of this year with numerous rate cases. So, again, the
14 deferral is an option. You know, if we could find a
15 work-around solution and just dispose of the issue before us
16 with everyone having a comfort level, I'm open-minded to that,
17 too, whatever the majority wishes to do.

18 But if I were to suggest something as a quick-fix, I
19 think I would focus on changing the operator charge for the pay
20 telephone and call aggregator calls only where you see the
21 2.50s in the top portion. Again, not applicable to inmate
22 facilities, I'm not touching that. But the 2.50 for those two
23 respective numbers in the column on the far right, I would
24 either change that to 2.75 or \$3 and be comfortable with that.
25 And basically that would be the only modification I would have

1 to the staff recommendation.

2 I know that the concern has been a cost
3 justification. If what Mr. Renard is, in fact, saying is true,
4 to the extent that the rates listed do not reflect the capital
5 costs and maintenance of the payphone itself, that may be
6 sufficient justification to justify, you know, a small
7 incremental increase in the operator charge. A 25-cent
8 increase, again, in the grand scheme of things may promote
9 public policy without causing an entire research project over
10 25 cents. But, again, I'll leave that to the Commission.

11 CHAIRMAN CARTER: You're recognized.

12 COMMISSIONER ARGENZIANO: Thank you.

13 The more and more I think about this, I'd like to
14 know from AT&T's perspective, there is, in my mind, a big
15 difference between the law of the land for keeping payphones
16 and maybe AT&T providing service in hotels. People have a lot
17 of choices in hotels. They can use their cell phone, they can
18 use their calling cards and so on. If the cost justification
19 proves out that, you know, the costs are surpassing the caps,
20 is it AT&T's belief that the -- or does AT&T believe that there
21 is a segregation between the payphones and the service you
22 provided?

23 I guess when you look at payphones you look as it as
24 the law of the land because of the possibility that those who
25 really are in more distress financially or economically may be

1 using payphones, even though they are disappearing very
2 quickly. Do you believe there should be a separation of the
3 two? And the other thing is the caps, I'd like to talk to you
4 more about the caps.

5 MR. GREER: Commissioner, from an operator service
6 provider's perspective, you know, we are trying to streamline
7 our operator services. So keeping call aggregators and
8 payphones together makes that a simpler process. As I
9 mentioned earlier today as far as caps go, AT&T Florida is
10 specifically capped by statute under our price cap statute for
11 the operator services rates in addition to dealing with also
12 the caps associated with operator services, the payphones
13 rules.

14 So from an operator's perspective, the call volumes
15 have decreased considerably, labor costs, of course, have gone
16 up, and trying to keep those in the same ballpark makes it
17 easier for us to deal with than separating them out.

18 COMMISSIONER ARGENZIANO: And the reason I ask is
19 because it seems to me that the caps were in place for collect
20 phone calls more than anything to prevent an abuse, or as I
21 think staff wrote it, astronomical rates for collect calls.
22 And then I'm trying to look at the two, and I could -- I can
23 understand people using payphones probably more than anything,
24 who would use collect phone calls rather than in a hotel room.
25 Which occasionally does happen, I guess, if you don't have your

1 card. And I don't know. But I guess what I'm trying to get at
2 is, number one, the caps, and I'm not sure. If the law of the
3 land says payphones should be there, then perhaps there should
4 be caps, but with proper compensation so that they can stay
5 around. But I'm not so sure in my mind, and, again, it all is
6 cost justification with the increase, if there should be caps
7 for the other services since there are alternatives, choices
8 that people make. If you charge too much for me to use your
9 service, I'm not going to use it.

10 But I wouldn't be comfortable with even thinking
11 about the removal of the caps unless they were segregated, and
12 that is why I just wanted to have a little bit more discussion
13 about that. And I guess you would also be happy with a cap as
14 long as it is sufficiently compensated the cost.

15 MR. GREER: Yes, Commissioner, we would. And our
16 main -- one of our main concerns is dealing with the caps,
17 because we do see the difference between inmate payphones and
18 call aggregators, but we also have inmates, payphones, call
19 aggregators in our retail operations. You know, if we could
20 keep the segregation as far as our retail operation somewhat
21 consistent, and what I hear you saying is that call aggregators
22 would be handled like our retail, that's different than call
23 aggregators being their own little separate bucket, and then
24 payphones and then inmates. So, I mean, if that is what you
25 are saying, then handling it as retail is a lot easier than

1 breaking out call aggregators and developing some mechanism so
2 that we can have a different cap for them.

3 MR. MOSES: Commissioners, we can ask for the cost
4 of -- the cost of doing these calls from the companies. Again,
5 if they will provide us that information, we can possibly turn
6 this around quickly to you and give you the cost
7 justifications, because it is quite obvious you all want that.

8 MR. GREER: Commissioner, and I don't have a problem
9 with that. I mean, I think we have given -- this has been a
10 long process, so I think we have given some of that
11 information, but as far as from an operator service
12 perspective, I think somebody had mentioned that provision of
13 operator services at payphones and provision of operator
14 services at call aggregators is functionally pretty much the
15 same thing, and I just don't know what else I would give you.

16 MR. RENARD: If I can add, there are two things. One
17 is as a practical matter I'm not aware of certainly any of our
18 members or probably any payphones in Florida that use AT&T as
19 their operator service provider. So as a practical matter, I
20 don't think AT&T is going to have to do much of anything to
21 deal with these, because these are zero-plus and zero-minus
22 calls, so that is the operator service provider selected by the
23 payphone owner as the primary carrier on the phone. That is
24 not a business that AT&T has pursued, nor are they really
25 providing, so it is other companies that specialize in payphone

1 type operator services that are going to have to implement
2 these rates. They are members of ours. I know that they can
3 handle a differentiation.

4 The other point is, again, in the base rates and the
5 retail rates that Stan is referring to, and the traditional
6 phone calling rates, there is just no element in there for a
7 payphone piece. So, you know, there is a basis to
8 differentiate. But, again, timing is so important here. We
9 have tried to be really patient on this, but we really need to
10 reach closure and get some help to these folks, because it's a
11 hemorrhaging that's taking place.

12 CHAIRMAN CARTER: I'm going to go to Commissioner
13 Edgar, but I do think that, you know, from the standpoint of
14 what staff is saying is that if AT&T has provided the
15 information that's isn't necessary their perspective, however
16 from the standpoint of the payphones they have not provided the
17 information, then notwithstanding the fact that time has
18 elapsed we still don't have a basis for that. I'm just
19 thinking aloud.

20 Commissioner Edgar, you're recognized.

21 COMMISSIONER EDGAR: Thank you, Mr. Chairman.

22 I would like to go ahead and offer a motion and see
23 where it takes us, if I may. We have spent a good amount of
24 time on this this morning, and generally when we have such
25 thorough discussion, I like to make a decision and move

1 forward. But there are times where, quite frankly, I think
2 additional information is needed, and often that is even more
3 the case with rulemaking, even in some other PAA type items.
4 We have had a number of suggestions, and I think many of them
5 are good ones, but I also have some discomfort sometimes with
6 making general changes to rule language when I can't see what
7 that rule language would then be to implement those changes.

8 So with some of those general comments, I would offer
9 that we defer this action at this time with some specific
10 direction to our staff, which I'll get to in just a moment. I
11 know that we all want customers to be well served and we also
12 want rates that make sense and that have a clear basis. So I
13 would ask that we defer this item, direct our staff to work
14 with the parties, and reexamine the information that they have
15 or may need to bring forward a follow-up item with some
16 additional cost justification, and specifically some additional
17 information as to the implications for similar or disparate
18 treatment for the payphone and the call aggregator issue, and
19 other issues that have been raised here today.

20 I would also ask that our staff take another look at
21 the SERC and see if maybe a little more meat can be put on the
22 bones of that. And I would also ask that they bring forward to
23 us this item with additional information in sixty days.

24 COMMISSIONER SKOP: Second.

25 CHAIRMAN CARTER: It has been moved and properly

1 seconded. Commissioners, we are in discussion.

2 Commissioner McMurrian, you're recognized.

3 COMMISSIONER McMURRIAN: I'll just say I agree with
4 that. I would have seconded it, as well. So I think it is the
5 right thing to do at this point. I will share that as we have
6 discussed this more, I guess I'm starting to be more of the
7 mind that it might be better to have uniform across the
8 different ones, but that said, I think that staff's additional
9 information will help flesh those kinds of things out. So I
10 support the motion.

11 CHAIRMAN CARTER: Any further discussion on the
12 motion? Any debate?

13 Hearing none, it has been moved and properly
14 seconded. All in favor, let it be known by the sign of aye.

15 (Simultaneous aye.)

16 CHAIRMAN CARTER: All those opposed, like sign.

17 Show it done.

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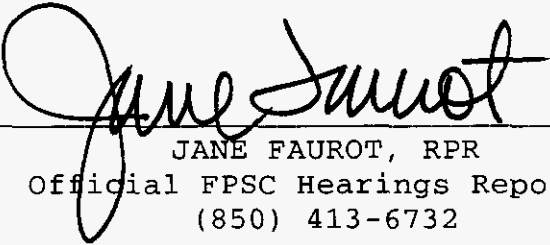
CERTIFICATE OF REPORTER

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 12th day of March, 2009.



JANE FAUROT, RPR
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