ORIGINAL

DOCKET NO. 951232-TI [Telecommunications Services, Inc.]

WITNESS: Direct Testimony of David Resposo, Appearing on Behalf of Respondent,
Telecommunications Services, Inc., as an adverse witness.

DATE FILED: June 15, 1998

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO.: 951232-TI
FILED: October 17, 1995

In Re: Dade County Circuit Court
referral of certain issues in
Case No. 92-11654 CA 11,
(Transcall America, Inc., vs.
Telecommunications Services, Inc.,
and Transcall America, Inc. and
Advanced Telecommunications Corp.)
that are within the Commission's
jurisdiction.
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COPY

2601 South Bayshore Drive
Miami, Florida
May 20, 1998
4:10 p.m.

DEPOSITION OF DAVID RESPOSO

Taken before Steven John Stentz, Court

Reporter and Notary Public for the State of Florida at

Large, pursuant to Notice of Taking Deposition filed in

the above cause.

1 <u>APPEARANCES</u>:

2 J. ELLIOT MESSER, ESQ., and ALBERT T. GIMBEL,
ESQ., and of the firm of Messer, Caparello & Self,
3 P.A., on behalf of the Plaintiff.

4 WESLEY R. PARSON, ESQ., of the firm of
Adorno & Zeder, P.A. on behalf of the Defendant.

5

CHARLIE PELLEGRINI, ESQ., on behalf of the
6 Florida Public Service Commission, appearing via
telephone.

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8 _____

9 **I N D E X**

10 | <u>Witness</u> | <u>Direct</u> | <u>Cross</u> | <u>Red.</u> | <u>Rec.</u> |
|---|---|---|---|---|
11 | **DAVID RESPOSO** | 3 | 34 | 37 | 41 |

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1   Thereupon,

2   DAVID RESPOSO,

3   was called as a Witness and, having been first duly

4   sworn by the Court Reporter, testified as follows:

5   DIRECT EXAMINATION

6   BY MR. PARSONS:

7   Q.   Could you state your name for the record,

8   please.

9   A.   David Resposo.

10   Q.   As you know, Mr. Resposo, my name is Wes

11   Parsons.   I am the attorney for Telecommunication

12   Services, Inc., which is involved in a lawsuit before

13   the Florida Public Service Commission.   I'll be asking

14   a number of questions of you today.   If you don't

15   understand any of my questions, let me know and I'll

16   make it understandable.

17   Is that agreeable, sir?

18   A.   Yes.

19   Q.   Where do you live, Mr. Resposo?

20   A.   In the Miami area.

21   Q.   Could you give me the street address, please.

22   A.   13601 Southwest 84th Avenue, Miami, 33158.

23   Q.   Are you married, sir?

24   A.   Yes.

25   Q.   Any children?

1   A.   Three kids; two girls and a boy.

2   Q.   Where do you work?

3   A.   I work with Anderson Consulting.

4   Q.   What is your position with Anderson

5   consulting?

6   A.   Production specialist II.

7   Q.   What's a production specialist?

8   A.   I have to know the business concept of the

9   contracts that Anderson consults with or sends me to.

10   Right now, it's Ryder. Since I've been with Ryder or

11   recently it's been Ryder M.S. since I've been at

12   Anderson Consulting. I'm a Ryder specialist in the

13   business sense.

14   Q.   When you say Ryder, you mean Ryder or the

15   rental truck company?

16   A.   Leasing and rental.

17   Q.   Are you a specialist with Ryder?

18   A.   Yes.

19   Q.   At some point in time, were you employed by a

20   company called TelTech?

21   A.   Yes.

22   Q.   When did you go to work for TelTech?

23   A.   I believe it was March of '87.

24   Q.   What was your position at TelTech?

25   A.   Senior programmer.

1   Q.   How long did you work there?

2   A.   I worked -- Well at TelTech, you have to

3 understand that the company TelTech or that for the

4 time that I was employed, I would say it was about two

5 years before it the acquired by ATC. Eventually it

6 became Worldcom.

7   Q.   TelTech actually became Telus at some point?

8   A.   I believe so.

9   Q.   Were you a senior programmer during your

10 entire stint and before it became Telus?

11   A.   Yes.

12   Q.   Were you employed as a senior programmer at

13 Telus?

14   A.   Yes.

15   Q.   When Telus was acquired by ATC, did you move

16 to EDS at that time?

17   A.   Yes.

18   MR. PARSONS: Excuse me, sir.

19   (Whereupon, an off-the-record discussion was

20   had.)

21   (Mr. Pellegrini makes an appearance via

22   telephone.)

23   MR. PARSONS: I'm sorry. We are only about

24   two minutes into the deposition of Mr. Resposo.

25   Mr. Resposo has testified that currently he's a

1   product specialist for Anderson Consulting. His

2   products specialty is Ryder; the rental and

3   leasing company. He's testified that he began his

4   employment at TelTech or that corporation in March

5   of 1987 as a senior programmer. He stayed on the

6   as a senior programmer. After that, TelTech

7   became Telus. That's about what we have so far.

8   MR. PELLEGRINI: Thank you.

9   BY MR. PARSONS:

10   Q. Mr. Resposo, at some point did you go to EDS?

11   A. Yes.

12   Q. Was that on the acquisition of Telus by ATC?

13   A. I believe so.

14   Q. Did you go over to EDS as a senior

15   programmer?

16   A. What happened is that EDS didn't have a

17   senior programmer. They have a different title for the

18   same position. I went there as a senior systems

19   engineer.

20   Q. Okay.

21   A. It's an advanced S.E.

22   Q. Advanced S.E; being systems engineer?

23   A. Yes.

24   Q. Who was your supervisor during your tenure at

25   TelTech and Telus?

1   A.   I started with a supervisor or manager or a

2 guy named Joe Signorelli.

3   Q.   Did that stint change later on?

4   A.   When we went to EDS, I reported to Joe --

5   Q.   Hollop?

6   A.   Hollop, right.

7   Q.   What were your duties as a senior programmer

8 at TelTech and Telus?

9   A.   My duties were, one, to design the -- Not

10 design, but develop software, and also support for

11 software.

12   Q.   Okay.

13   A.   This was on the telephone or phoning

14 software. I basically answered complaints.

15   Q.   These were already in existence at the time

16 that you joined TelTech?

17   A.   Yes.

18   Q.   What was involved in maintaining the software

19 at TelTech?

20   A.   What do you mean?

21   Q.   What sort of tasks were performed or what

22 sort of coding was performed on the software?

23   A.   Well, just depending upon the use or the what

24 the customer wanted, the maintenance being done and the

25 bug that's on the program. That's what support is or

1   does.

2   Q.   What is a bug, in a computer sense?

3   A.   A bug could be anything. It could be program

4   stops or why it's giving you certain calculations or

5   just anything that is out of the procedure.

6   Q.   Are there software bugs and hardware bugs?

7   A.   We only deal with -- Well, my position was

8   software bugs.

9   Q.   What sort of software did you maintain?

10   For example, was it billing software versus

11   some other sort of software?

12   A.   We had billing and some collections, I think.

13   Q.   Mr. Resposo, could you describe for me, just

14   from your perspective as a senior programmer, the flow

15   of information in your department and through the

16   software system and out again?

17   For example did the software -- Does the data

18   come in from a switch or --

19   A.   Okay, let's see. Remember, this is maybe

20   just generalized. As far as I can remember, the calls

21   come from the network by a dec switch. It gets

22   collected on a tape. The tape is then loaded at the

23   end of the day or the cycle. It's loaded into a

24   process that they call rating. It rates the calls and

25   all of that. Then after it's been rated, it goes to

1 billing to bill the calls.

2   Q.   Are there reports or invoices generated by

3 the billing application?

4   A.   Invoices are created every cycle. They have

5 one-to-twelve or one-to-twenty-four cycles or every

6 cycle.

7   Q.   You mentioned a dec switch.

8   Is that a dec; D-E-C switch?

9   A.   I think it's D-E-C.

10   Q.   Is that Digital Systems Corporation or --

11   A.   That, I don't know. It could be.

12   Q.   Have you had your deposition taken before,

13 Mr. Resposo?

14   A.   Yes.

15   Q.   Was your deposition taken in a case before

16 the Public Service Commission?

17   A.   You have to elaborate. I don't want to

18 guess.

19   Q.   Do you recall your deposition being taken

20 about a matter concerning the appropriate time points

21 for the billing of telecommunication services over a

22 Telus or TelTech switch?

23   A.   Yes.

24   Q.   In your role as a senior programmer, did you

25 become aware -- And we're talking in the context of the

1   time points in telecommunications service, that there

2   were ticks being added at some point to the telephone

3   calls?

4   MR. MESSER: I would object to the form of

5   the question. It's also leading.

6   MR. PARSONS: You can answer, sir.

7   THE WITNESS: What was the question again?

8   BY MR. PARSONS:

9   Q.   The question was: Did you become aware at

10   sometime that ticks were being added to the length of

11   the telephone calls?

12   A.   When you say was I aware, did I find them

13   myself or --

14   Q.   Did you find it yourself or did someone else

15   tell you about it?

16   A.   Well, both.

17   Q.   How did you find it yourself?

18   A.   Well, I didn't.

19   Q.   Did someone else?

20   MR. MESSER: Objection to the form; calling

21   for hearsay.

22   MR. PARSONS: You can answer the question.

23   THE WITNESS: There were times when my

24   manager, Joe Signorelli, asked me -- And because

25   we always -- Everything that we changed on a

1   program or on the rating system, we always use a

2   real call on the tape or the old tape. We

3   change -- Not change, but we add time points based

4   on one or six or seven. He tells me what to rate

5   the calls. We add ticks to this or one time point

6   or whatever.

7 BY MR. PARSONS:

8   Q.   Did you actually see yourself that ticks were

9 being added to certain calls?

10   A.   Yes.

11   Q.   Was that a COBOL source code that --

12   A.   Tandem.

13   Q.   Did you -- Were you personally responsible

14 for the code or to add the three ticks?

15   A.   To add it?

16   Q.   Yes, sir.

17   A.   The code was already there when I came.

18   Q.   Do you know who originally coded that code?

19   A.   It was a package that TelTech bought.

20   Q.   From whom did they buy it from?

21   A.   Somebody in Texas.

22   Q.   Did you ever modify or remove those three

23 additional ticks?

24   A.   Yes and no.

25   Q.   Okay.

1   A.   Yes, because I was involved in some of it.

2   No, because other programmers that did.

3   Q.   Did you have an understanding at the time of

4   the reason for the addition of the three ticks to the

5   calls?

6   A.   I'd say that from the technical part, yes.

7   From the management part, I don't know.

8   Q.   What do you know from the technical

9   standpoint?

10   A.   The technical standpoint was that since the

11   program rounds calls in duration, that it will -- Just

12   depending upon what the rating is, either it -- It

13   stays on that level or goes up to another minute.

14   Q.   Did anyone at TelTech or Telus ever indicate

15   to you that TelTech or Telus enjoyed revenue

16   enhancement as a result of those three additional

17   ticks?

18   MR. MESSER: We're going to make a continuing

19   objection to your characterizations and

20   statements. Also, you're leading the witness.

21   THE WITNESS: Nobody ever told me about

22   revenue enhancement.

23   BY MR. PARSONS:

24   Q.   Did you ever learn that even if no one ever

25   told you that at that time?

1   MR. MESSER: Same objection.

2   THE WITNESS: No.

3   BY MR. PARSONS:

4   Q.   Were you aware, in the field of application

5   or programs, a term that referred to an answer

6   qualifier?

7   A.   Yes.

8   Q.   What is answer qualifier?

9   A.   At this point, I don't remember.

10   Q.   Okay.

11   A.   I would have to look at the code itself.

12   Q.   Okay.

13   A.   That's just to see what it's doing at this

14 point.

15   Q.   Do you know where the code is for the

16 applications that TelTech and Telus were using for

17 billing?

18   A.   Where?

19   Q.   Yes, sir.

20   A.   Where is it now?

21   Q.   Well, are there copies of the source code

22 that you --

23   A.   Well, the last copy that I had and I saw, I

24 gave it to a guy named Merrick.

25   Q.   Is that Dan Merrick?

1   A.   Right. I coded it or highlighted it.

2   Q.   What portion of the code did you highlight?

3   A.   Point calculations.

4   Q.   Did you highlight the code with Mr. Merrick

5 or --

6   A.   No, Mr. Merrick was not technical.

7   Q.   What was the larger purpose, though, of

8 highlighting the code and giving it to Mr. Merrick?

9   MR. MESSER: Same objection.

10   THE WITNESS: The purpose was for him to see

11   the calculations.

12 BY MR. PARSONS:

13   Q.   Do you know -- Let me start over again.

14   Were you asked by someone to undertake the

15 process of marking the code or highlighting certain

16 areas of it for Mr. Merrick?

17   A.   Well, I believe he asked me personally.

18   Q.   Okay.

19   A.   That was the last time that I saw the code.

20   Q.   Would you describe the addition of the three

21 ticks as a bug in the applications code?

22   A.   No.

23   Q.   Would you describe it as an enhancement to

24 the application code?

25   MR. MESSER: We're going to make the same

1   objection to the form of the question.

2   THE WITNESS: Well, when you say enhancement,

3   I believe that the code was already there when I

4   came in.

5   BY MR. PARSONS:

6   Q.   Is there some term that you would use to

7   describe the three -- The addition of the three ticks

8   to the code?

9   I mean, we -- Apparently, a bug doesn't work

10 and enhancement isn't right.

11   A.   Okay.

12   Q.   Is there some term that you feel would be

13 appropriate to describe that?

14   A.   I believe that I can say that the code was

15 for the -- For that rate or having to do with the

16 rating. Basically, it's routine calculations for

17 ratings or something.

18   Q.   During the time that you were a senior

19 programmer at Telus and TelTech, did you become aware

20 of any bugs in the application codes that you

21 maintained?

22   A.   It's kind of broad.

23   Q.   It's a broad question; absolutely, sir.

24   A.   Yes and no.

25   Q.   Okay, could you tell me about the "yes" part.

1   A.   The "yes" part is basically for programs and

2   why a rating is slowing down or taking a long time to

3   process, and so forth.

4   Q.   Okay, so one of the bugs that you discovered

5   was that the program was executing too slowly?

6   A.   That the program was -- It's going to

7   bottleneck.

8   Q.   Okay, did you become aware of any bug in any

9   of the application programs that Telus or TelTech used

10 that resulted in any incorrect billing coming out of

11 the system?

12   A.   I don't believe so.

13   Q.   Did you have any responsibility for

14 maintaining codes that determined whether a particular

15 call was billable or non-billable?

16   A.   Responsibility?

17   Q.   Yes, sir.

18   A.   Yes.

19   Q.   Did you become aware that the code

20 responsible for determining whether a call was billable

21 or non-billable was resulting in certain no-answer

22 calls being rated as billable under any circumstances?

23   A.   I don't remember.

24   Q.   Do you recall any responsibility that you had

25 for investigating whether a no-answer call was being

1   billed if there was no answer after or over one minute

2   of ringing?

3   A.   Over one minute of ringing?

4   Q.   Yes, sir.

5   A.   Yeah, I think it's five or seven rings.

6   Q.   Could you tell me about that, please.

7   What happened?

8   A.   There was -- What happened was that I -- I

9   believe that it was taken out when I started at

10   TelTech. That code or routine that was still there was

11   a -- As a matter of fact, one of the guys that I worked

12   with asked me why that's happening. The reason that

13   was given to me or what I was told was, it was not

14   tying up a line.

15   Q.   Was that code removed at some point at

16   TelTech or Telus?

17   A.   I'm not sure, but I think so.

18   Q.   Were you personally responsible for removing

19   or correcting that code?

20   A.   No.

21   Q.   Would you characterize the code that resulted

22   in a call being billable, even though there was no

23   answer after five to seven rings, as a bug?

24   MR. MESSER: Objection.

25   THE WITNESS: Not in the technical sense,

1   because the program was -- It gave the right

2   calculation.

3 BY MR. PARSONS:

4   Q.   Do you know if that particular code also came

5 with the package that TelTech bought?

6   A.   I believe so.

7   Q.   Did you ever hear that the purpose of that

8 code was described as revenue enhancement?

9   A.   No.

10   Q.   Did you ever become aware of a similar bug,

11 where after a certain length of time or a busy signal,

12 the call was rated as billable?

13   MR. MESSER: Objection.

14   THE WITNESS: No.

15 BY MR. PARSONS:

16   Q.   Did you have any responsibility for coding

17 or maintaining a program known as dedup?

18   A.   No. I'd say that I -- I'm not sure. I have

19 to look at the code to see if I have seen it. There

20 are so many codes, but I might have.

21   Q.   Does that name ring any bells with you?

22   A.   No. I'm sorry.

23   Q.   Do you recall a situation with the billing

24 software -- Let me start over.

25   Do you recall a situation with the data that

1   your department was receiving from the switch where

2   there would be duplicate records for one call included

3   in the data stream?

4   A.   A duplicate?

5   Q.   One call, but a duplicate record for that

6   call.

7   A.   No. That's a bug.

8   Q.   Do you recall any advice that you received

9   from anyone at Telus or TelTech that the software

10 department was going to have to deal with a bug that

11 resulted in duplicate billing that came from the

12 software at the switch?

13   MR. MESSER: Same objection.

14   THE WITNESS: No.

15 BY MR. PARSONS:

16   Q.   Do you know, sir, when the software was

17 corrected for the five-to-seven-ring code?

18   A.   No, I don't know.

19   Q.   Do you know if it was before or after the

20 acquisition of TelTech by Telus?

21   A.   I think it was before that.

22   MR. PELLEGRINI: I'm sorry. Did he --

23   MR. MESSER: He said, before the acquisition.

24 BY MR. PARSONS:

25   Q.   After you went to EDS, did you learn about

1   any billing irregularities at Telus or TelTech?

2   A.   Any billing irregularities?

3   Q.   Yes, sir.

4   A.   No.

5   Q.   Did you learn about any bugs in the Telus or

6   TelTech billing software; the billing or rating

7   software?

8   A.   No. I don't know if you are aware, but when

9   I went there, they had their own package.

10   Q.   Did anyone at Telus or TelTech ever advise

11   that you customers were complaining that they were

12   receiving duplicate bills for a single call?

13   A.   I don't know.

14   Q.   You mentioned, sir, that you were a senior

15   programmer at Telus and TelTech.

16   How many other programmer were there?

17   A.   I'd say about ten or fifteen. Maybe it was

18   less.

19   Q.   Were there any other senior programmers or

20   were you the only one?

21   A.   Yeah, there were others.

22   Q.   What determined whether you were a senior

23   programmer or a regular programmer?

24   A.   I guess, the hire date.

25   Q.   It was purely a matter of your tenure at the

1   company?

2   A.   No, it's depending upon how you came into the

3   company; not tenure.

4   Q.   What do you mean by "how you came into the

5   company?"

6   A.   Well, the thing is that if you had more

7   experience on the tandem system or you had more

8   technical experience then people just being promoted

9   from within the company and -- You know, it's not how

10   or if you know TelTech's business, but how much you

11   know or how well you know the tandem system.

12   Q.   You said a tandem system?

13   A.   Yes.

14   Q.   Were there H.P. systems at --

15   A.   Well, there is or was an H.P. system, but I

16   never --

17   Q.   This was before the tandem?

18   A.   Yes.

19   Q.   Was it COBOL or --

20   A.   Yes.

21   Q.   Were you, at the time and in your own view,

22   an expert COBOL programmer?

23   A.   Yes.

24   Q.   Would you still consider yourself to be an

25   expert COBOL programmer?

1   A.   Yes.

2   Q.   Could you name as many of the other senior

3   programmers at Telus and TelTech as you can recall?

4   A.   When I came in, there was Jeff Kennedy.

5   There was Mike, I believe, Childers.

6   Q.   Was there any particular senior or regular

7   programmer who had debugging responsibilities?

8   A.   No.

9   Q.   In your experience, are there certain

10   programmers who are better at debugging than others?

11   A.   Yes.

12   Q.   Was there someone who had a special knack

13   for that at Telus as TelTech?

14   A.   I guess we have to clarify what debugging is,

15   because if you are saying debugging or if you say

16   research -- You know, because in my field, if a bug

17   exists, the first thing you do is research what's

18   happened.

19   Q.   Was there someone who had a special knack for

20   researching a bug?

21   A.   Basically, if you're a good programmer, you

22   should be good at research.

23   Q.   After the research is done, was there someone

24   with the special knowledge for correcting a bug if it

25   was necessary?

1   A.   Usually, whoever did the research usually

2   fixes the problem.

3   Q.   Mr. Resposo, I neglected to ask you about

4   your educational background at the beginning of the

5   deposition.

6   Do you have a college degree, sir?

7   A.   Yes.

8   Q.   Where is that is from?

9   A.   I have a college degree from University of

10   Manila, in the Philippines, in economics and finance.

11   Q.   When was that awarded?

12   A.   It was awarded in 1970. I took some

13   computer classes and courses at N.Y.U. in New York.

14   Q.   Did you receive a degree?

15   A.   No, they were just advanced courses.

16   Q.   Was it a B.S. or --

17   A.   In computers.

18   Q.   Was that a B.S. or a B.A. degree?

19   A.   B.S.

20   Q.   How long have you programmed professionally,

21   sir?

22   A.   I'd say about eighteen years.

23   Q.   Have you programmed in languages other than

24   COBOL?

25   A.   Yes.

1   Q.   Which other languages?

2   A.   Visual, basic, power builder.

3   Q.   Keep going.

4   A.   S.Q.L., (Phonetic.) Storetran.

5   Q.   Anything else?

6   A.   That's it.

7   Q.   COBOL is a compiled language; is it not?

8   A.   Yes, but it's not a true compiled language.

9   Q.   It's compiling into a code or something --

10   A.   Well, when you say compiled, you write or

11   convert to the machine language. The machine runs it.

12   Q.   When you do maintenance on the software

13   applications, does the maintenance require you to

14   recompile the --

15   A.   Well, you make a copy.

16   Q.   What is the procedure?

17   A.   Well, you compile the source.

18   Q.   Do you have to compile the entire source

19   code?

20   A.   Yes. Well, when I say entire, a COBOL

21   program could be using other modules. You don't have

22   to compile that. You just use the core of the module.

23   Q.   Could you tell me how many times in your

24   tenure at TelTech and Telus did you recompile a COBOL

25   module?

1   A.   Many times.

2   Q.   What was the purpose of the recompilation?

3   A.   Again, we have to go back to where there is

4 a bug that needs to be fixed or a program that has a

5 bend in production. Anytime it's the source for the

6 production or you have to -- If you fixed it or you

7 modify it, it has been to be recompiled.

8   Q.   How many bugs would you say that you

9 researched during your tenure at Telus and Telus?

10   A.   I don't remember. It's a lot.

11   Q.   More than one-hundred?

12   A.   A good number.

13   Q.   I need to understood that.

14   Would a "good number" be more than

15 one-hundred?

16   A.   I would say so.   .

17   Q.   You mentioned one bug in passing, which was a

18 bottleneck in the execution speeds in one program or in

19 the source.

20   What other bugs did you research?

21   A.   One is if we're talking about a slowed

22 running or a process that -- Well, I think what we did

23 was, we restructured the program's sorting process.

24   Q.   So that makes it faster or --

25   A.   Yes.

1   Q.   Did you have some bugs that weren't related

2 to execution speed?

3   A.   From execution?

4   Q.   No, that were not related to execution speed?

5   A.   No.

6   Q.   Did you have any bugs that related to the

7 accuracy of the results?

8   A.   Yes.

9   Q.   I'm sorry. I missed your answer.

10   A.   What was the question?

11   Q.   The question was: Did you have any bugs

12 that you researched relating to the accuracy of the

13 results?

14   A.   Yes.

15   Q.   Can you describe for me what those bugs were?

16   A.   Like I said, a bug could be something that

17 comes from not having the right calculation or because

18 it was not given the right data or things like that.

19   Q.   What sort of bug or research would there be

20 having to do with the correctness of a time

21 calculation?

22   A.   The calculation was -- I believe that there

23 was no -- Well, technically speaking, there was nothing

24 wrong with the calculation. The calculation stayed

25 that way. The only thing that I have changed on the

1 calculation which is outside of that, I believe, is

2 the -- I would say outside of the main routine

3 calculation is whether we need to recalculate or change

4 the time point or whatever to three ticks or to

5 whatever.

6   Q. You're saying that the calculation was

7 correct or you mean that it was literally a matter of

8 multiplication or addition or whatever --

9   A. Yes.

10   Q. -- being done correctly --

11   A. Yes.

12   Q. -- but that result that you're getting was

13 not correct?

14   A. No, because like when -- When a programmer or

15 when I used to be a programmer, they would say, okay,

16 let's change the time point, which I usually do. Joe

17 Signorelli usually asked me to do these things. What I

18 would do is, we run a test. Then he said, okay,

19 instead of subtracting time point seven from six, let's

20 do seven to five. We just change it, because it's

21 there or because it's already there. What I have to do

22 is, I -- It's just based upon the results. I give them

23 a printout, Joe or whoever. It's a tape that says on

24 this date, we have so-and-so. It was a billable

25 calculation. The result is based upon the calculation

1   or on the time point that I was given.

2   Q.   Did you understand the purpose of that

3   exercise to be to see how revenue could Le enhanced?

4   MR. MESSER: Objection. Let me say --

5   MR. PARSONS: Let me finish the question

6   before you break in with your objection, Mr.

7   Messer. Every objection is on record.

8   The question is on record. Can you answer

9   it, please.

10   THE WITNESS: I have an understanding, but

11   that's only my understanding. Management never

12   told me or Joe Signorelli about that or let's do

13   the revenues this way.

14 BY MR. PARSONS:

15   Q.   I'm just asking about your understanding,

16 sir.

17   A.   My understanding is that it was based upon

18 the time point being changed. If we had more calls,

19 that made the rating go up or down.

20   Q.   By the "rating," you mean the revenue that

21 was generated by those calls?

22   A.   If you run it through the billing system, it

23 will have an effect on the billing system.

24   Q.   Did you ever call that sort of change a

25 time-point sensitivity analysis?

1   A.   If you say -- What do you mean by

2 "sensitivity analysis?"

3   Q.   Well, I'm actually wondering if those words

4 were used to describe what you were doing with the time

5 point?

6   A.   Sensitive?

7   Q.   Yes, sir.

8   A.   No, because not everybody in the company

9 knows about it. If it's considered sensitive, not a

10 lot of people know about it.

11   Q.   Did you ever do that sort of modification to

12 the software in order to see how a rating changed, not

13 with time points, but with other sorts of variables or

14 constants?

15   A.   No.

16   Q.   Okay.

17   A   When you say "variable," you're including the

18 three ticks or --

19   Q.   Well --

20   A.   -- a constant?

21   Q.   Okay, let me exclude the three ticks.

22   A.   Okay.

23   Q.   Did you ever experiment -- And by

24 "experiment," I mean to determine what effect was had

25 on the rating to change the field or the call/answer

1   qualifier?

2   A.   If I did an experiment on something using a

3   time qualifier, it has to come from management.

4   Q.   Did you do that?

5   A.   It's possible.

6   Q.   What do you recall about that?

7   A.   I don't remember. It's possible that I might

8   have run some tests on it.

9   Q.   You answered me already about the time

10 qualifiers.

11   Do you recall ever doing any sort of

12 experimentation on the code for answer qualifiers?

13   A.   That's a possibility, but I don't remember.

14   Q.   Did you ever do any experimentation on the

15 code regarding the filtering out of duplicate or

16 recorded calls?

17   A.   I never remember the company at the time

18 charging or billing customers twice.

19   Q.   So you never did any sort of experimentation

20 then?

21   A.   No.

22   Q.   Just one second, sir.

23   A.   Sure.

24   Q.   Did you do any maintenance on the software

25 that was responsible for the tariff applicable to the

1 call or rating a tariff?

2   A.   I don't remember that; maybe.

3   Q.   Do you recall there being any bugs in that

4 software?

5   A.   There was another guy, I think, that did

6 that. I think his name was Gene Prescott.

7   MR. GIMBEL: Let me just interrupt. When you

8   nod your head, he can't record that. You have to

9   answer "yes" or "no."

10   THE WITNESS: No, I don't remember that.

11 BY MR. PARSONS:

12   Q.   Did Jim Prescott --

13   A.   Gene.

14   Q.   Did Gene Prescott ever indicate to you that

15 there were any bugs in the rating software?

16   A.   No.

17   Q.   Before today, Mr. Resposo, have you ever

18 spoken to counsel for Worldcom?

19   A.   No.

20   Q.   When did you work --

21   A.   Hold on. Let's step back.

22   Q.   Sure.

23   A.   When you say, have I ever met them before or

24 if --

25   Q.   Well --

1   A.   Before today?

2   Q.   Have you ever spoken with counsel for

3 Worldcom?

4   A.   No.

5   Q.   Okay.

6   A.   Personally, no, but in another deposition we

7 have -- And I don't know if that was counsel or

8 whatever.

9   Q.   Okay, I've got you.

10   When you marked up the code for Dan Merrick,

11 that was while you were at EDS?

12   A.   No. Part of my job -- Well, I was hired when

13 EDS was transferred. Basically, since EDS was or had a

14 telephonic package, Mr. Merrick discussed or asked me

15 for a copy of the rating software that we used for

16 TelTech and Telus.

17   Q.   Were you working at EDS when Dan Merrick

18 asked you for the software?

19   A.   Yes.

20   Q.   How did you happen to have a software code?

21   A.   Before the tandem system went away, you could

22 always access it if you had the right security. You

23 can do that and pull a copy from production.

24   Q.   Was the tandem still up and running at that

25 time?

1   A.   It was running, but not doing any production

2   or producing any invoices.

3   Q.   So you just made a copy of all of the

4   applications or the software from the tandem?

5   A.   Just one copy or just one source.

6   Q.   You marked that up and gave it to

7   Mr. Merrick?

8   A.   That's right.

9   Q.   Do you know what he did with it?

10   A.   No.

11   Q.   Was he working for EDS at that time?

12   A.   No, he was with LDDS.

13   Q.   Did Mr. Merrick ever tell you why he wanted

14   a copy of the source code?

15   A.   No.

16   Q.   Have you ever talked to him again after that;

17   after you gave him the source code?

18   A.   No.

19   Q.   Have you ever seen him to this day or since

20   then?

21   A.   No.

22   MR. PARSONS: Those are all of the questions

23   that I have for you, Mr. Resposo.   It may be that

24   counsel for the Public Service Commission on the

25   phone or Mr. Gimbel or Mr. Messer may have some

1   questions for you.

2   Mr. Pellegrini, if you would like to go next,

3   the witness is available for questions.

4   CROSS-EXAMINATION

5   BY MR. PELLEGRINI:

6   Q.   Mr. Resposo, my name is Charlie Pellegrini.

7   I represent the Public Service Commission. Let me ask

8   you in the first place if you were familiar with the

9   details under which Telus or Transcall billed TSI?

10   A.   No.

11   Q.   I'm sorry?

12   A.   No.

13   Q.   Are you familiar -- For example, could you

14   answer this question: Does Transcall bill TSI at

15   tariffed rates?

16   A.   No.

17   Q.   You don't know that?

18   A.   No.

19   Q.   Would you know, for example, whether

20   Transcall billed for payments or for calls that were

21   not made --

22   A.   No.

23   Q.   -- or calls that were not completed?

24   A.   You said that they were not completed?

25   Q.   Yes, I did.

1   A.   No, no.

2   Well, when you say "not completed," do you

3 mean busy calls or rings or --

4   Q.   Well, I'm talking now about calls that were

5 not completed and whether you know if Transcall billed

6 for such calls as calls that were not completed?

7   A.   No.

8   Q.   Busy signals?

9   A.   Busy signals, I -- I heard about it, but

10 like I said, I think the code was taken out before the

11 merger.

12   Q.   Is your knowledge firsthand?

13   A.   Is it firsthand?

14   Q.   Yes.

15   A.   Yes.

16   Q.   How about for calls that have bad

17 connections?

18   A.   No.

19   Q.   You don't know about that --

20   A.   No.

21   Q.   -- or whether such calls were billed?

22   A.   I don't know anything about that.

23   Q.   Would you know whether or not Transcall

24 provided PSI with sufficient support and information,

25 so that PSI knew how much it owed Transcall?

1   A.   No, I don't know about that.

2   Who is Transcall?

3   MR. PARSONS: Mr. Pellegrini, the witness

4   just asked the question: Who is Transcall?

5   MR. PELLEGRINI: I'm sorry?

6   MR. PARSONS: The witness -- And you may not

7   have heard because he spoke softly, but he just

8   asked the question which was: Who is Transcall?

9   I don't know if you want to answer that question

10 or not. Maybe the Worldcom attorney --

11 BY MR. PELLEGRINI:

12   Q.   My understanding is that Transcall is the

13 successor to Telus; is that not correct, Mr. Resposo?

14   A.   After Telus, it was ATC. They became LDDS.

15 We were changed to EDS. I don't know who Transcall

16 is.

17   Q.   When I say Transcall, I'm referring to

18 ATC/Telus; all right?

19   A.   Okay, who was the other party?

20   Q.   ATC/Telus.

21   A.   There was another company that you mentioned

22 or that I --

23   MR. GIMBEL: Transcall or TSI?

24   THE WITNESS: Yes.

25 BY MR. PELLEGRINI:

1   Q.   Would your answers to my questions thus far

2   change with that misunderstanding?

3   A.   No, no.

4   MR. PELLEGRINI: I don't have any further

5   questions for you, Mr. Resposo.   Thank you.

6   CROSS-EXAMINATION

7   BY MR. MESSER:

8   Q.   Mr. Resposo, are you aware of the term call

9   duration?

10   A.   I believe so.

11   Q.   Are you aware of the term time points?

12   A.   Yes.

13   Q.   What is the first time point, so far as your

14 understanding goes, in describing call duration?

15   A.   At this point, I would have to look at the

16 code to see what the time point is.   Again, it's been

17 so long that I would have to look at it.

18   Q.   Well, are you aware of the time points used

19 in calculation or call duration for purposes of the

20 billing that was utilized by TelTech when you were

21 employed at that company?

22   A.   I believe it's time point seven minus time

23 point six or five; something like that.

24   Q.   Okay, so at TelTech, the call duration was

25 time point seven less time point six; right?

1   A.   I think I -- Like I said, I would have to

2   look at the code again to see.

3   Q.   But that's your recollection?

4   A.   Yes.

5   Q.   Okay, I believe you said that insofar as your

6   knowledge of any ticks being added, they would have

7   been added at TelTech?

8   A.   Yes.

9   Q.   You said it was in the program that TelTech

10   acquired; is that correct?

11   A.   Yes.

12   Q.   So any ticks would have been added to time

13   point seven less time point six?

14   A.   Whatever the result is, yes.

15   Q.   Do you know of any change in that?

16   A.   Well, there were times when I was there that

17   a tick could be three or we had three ticks there.

18   Also, there were times when we would take it out or put

19   in the three ticks.

20   Q.   So the three ticks did not stay on the

21   billing system on a continuous basis?

22   A.   I believe so.

23   Q.   Well, I'm sorry.

24   Were there times when you would take that

25   back or --

1   A.   It always stays there.

2   Q.   But the time point parameters change?

3   A.   Yes.

4   Q.   Now, when you say that the time point

5 parameters change, you were also involved in some

6 testing to see what occurred or if the time points were

7 changed for purposes of billing; is that correct?

8   You ran some tests?

9   A.   I ran tests, but they never told me that it

10 is for purposes billing.

11   Q.   Okay, the fact you ran a test did not mean

12 the fact that a test program was implemented or

13 utilized; was it?

14   In other words, did you run tests that you

15 didn't implement the results of?

16   A.   Later on, after the merger and because they

17 had their own software, I did not. When we were at

18 TelTech, everybody would just -- Well, let me say this

19 or let me qualify that. There were times when I

20 changed the parameters, tested it and changed or

21 modified them. It went to production. There are also

22 times that we ran a test and it never went to

23 production.

24   Q.   It never went, but you did both?

25   A.   Yes.

1   Q.   You mentioned some b gs that related to the

2 speed of the processing.

3   A.   Yes.

4   Q.   I note that you said that you first became

5 employed at TelTech in 1987?

6   A.   Yes.

7   Q.   Are you aware of the date that ATC and Telus

8 merged?

9   A.   No.

10   Q.   You essentially were a part of the beginning

11 with TelTech and, I guess, with ATC or when you left?

12   A.   Yes.

13   Q.   Do you have any idea with respect to the

14 processing of bugs or where that took place; whether

15 you were at TelTech or --

16   A.   Both companies.

17   Q.   So it could have occurred in both companies

18 then?

19   A.   Yes.

20   MR. MESSER: Let me just take a minute in

21   order to confer with Mr. Gimbel. We'll probably

22   wrap up after that.

23   (Whereupon, an off-the-record discussion was

24   had.)

25 BY MR. MESSER:

1   Q.   I have just one last question.

2   Do you recall at all a billing process that

3   involved resellers for a company such as TSI?

4   Are you familiar with that?

5   A.   No.

6   Q.   Do you know whether that occurred or if --

7   A.   No.

8   Q.   Well, let me try to finish the question.

9   When you were at Telus -- Well, you're aware

10   of what is known as a Miami billing system?

11   A.   Yes.

12   Q.   Do you recall that billing system ever being

13   used to bill resellers?

14   A.   No.

15   MR. MESSER: Thank you, sir.   I have no

16   further questions.

17   RE-CROSS-EXAMINATION

18   BY MR. PELLEGRINI:

19   Q.   Mr. Resposo, do you know whether ATC was

20   capable of billing in six-second or thirty second

21   increments?

22   A.   No.

23   Thiry seconds?

24   Q.   I'm sorry?

25   A.   Did you say thirty seconds?

1   Q.   Six-second or thirty-second increments?

2   A.   Okay.

3   Q.   Was ATC capable of billing at those

4 increments?

5   A.   I don't know. I'll tell you, I would have to

6 see the code. I'm not sure at this time.

7   Q.   What do you know or what do you recall about

8 the capability for billing in those increments at all?

9   A.   I'm not sure of the increments, but I know

10 that after forty-five seconds that they get -- I

11 believe it's forty-five, it charges you at fifty-five

12 or after a minute or within a minute. I think it

13 rounds it to a minute. I'm not sure. Like I said, I

14 would have to look at the code.

15   Q.   Are you capable of looking at that code these

16 days or is that still available?

17   Is it still accessible?

18   A.   No, I'm not. First, I'm not employed by the

19 company. No. 2 is that the tandem system was taken

20 away. That means that -- I don't know if they have a

21 backup tape. At this time, I would say that it's

22 impossible.

23   Q.   Well, let me ask the question this way:

24 Generally, would it be easier to develop a program that

25 would bill in thirty seconds, as opposed to one that

1   would bill in six-second increments?

2   A.   To write a program?

3   Q.   From a programming standpoint, would one be

4   more complex or more difficult than the other?

5   A.   I don't know the answer to that.

6   Q.   I'm not sure why you can't answer. I'm just

7   asking the question from the general standpoint or I'm

8   asking you for an answer as a programmer whether it

9   would be more difficult to develop a program that

10 included thirty-second increments, as opposed to one

11 that included a six-second increment?

12   A.   As a programmer?

13   Q.   From a programming standpoint.

14   A.   It doesn't matter.

15   Q.   All right, are you aware that ATC may have

16 entered into an agreement regarding billing increments

17 and then later found out that it was not capable of

18 supporting that agreement?

19   A.   No.

20   Q.   No?

21   A.   No. I said, no.

22   MR. PELLEGRINI: All right, that's all.

23 Thank you.

24   MR. GIMBEL: Before you all go, I just want

25 to put something on the record, Wes, regarding our

1 twenty-one in number, were withdrawn and, in fact,

2 were not even part of our motion to compel. So by

3 with withdrawing No. 2 and No. 3 and also certain

4 subparts, Transcall and ATC have reduced the

5 number of interrogatories to two-hundred, which is

6 consistent with the Public Service Commission's

7 order. I want to put that on the record that I had

8 communication about that to Wes.

9 MR. PARSONS: Thank you. I think we're done.

10 (Whereupon, the deposition was concluded at

11 5:15 p.m.)

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3   STATE OF FLORIDA   )
                             : SS
4   COUNTY OF DADE   )

5

6

7   _____
                                            DEPONENT

8

9   Sworn to and Subscribed before me in Miami,
      Dade County, Florida this _____ day of _____,
10   1998.

11

12   _____
                                   Notary Public, State of Florida
                                   at Large.
13
                                   MY COMMISSION EXPIRES:
14

15

16

17

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25

1   CERTIFICATE

2

3   STATE OF FLORIDA:
                   SS:
4   COUNTY OF DADE:

5

6   I, the undersigned authority, certify that
     DAVID RESPOSO personally appeared before me and was
7   duly sworn.
                   WITNESS my hand and official seal this 30
8   day of   MAY   , 1998.

9

10

11

     STATE OF FLORIDA:
12   SS:
     COUNTY OF DADE:
13

14   I, STEVEN JOHN STENTZ, Court Reporter and
     Notary Public for the State of Florida at Large, do
15   hereby certify that I reported the deposition of DAVID
     RESPOSO; that the reading and subscribing of the
16   deposition were waived by the Witness and counsel for
     the respective parties; that the foregoing pages,
17   numbered 1-47, inclusive, constitute a true and correct
     transcription by said Witness on this date.
18   I further certify that I am not an attorney
     or counsel of any of the parties, nor a relative or
19   employee of any attorney or counsel connected with the
     action, nor financially interested in the action.
20   WITNESS my hand and official seal in the City
     of Miami, County of Dade, State of Florida, the 30
21   day of   MAY   , 1998.

22

23
             STEVEN   STENTZ, Court Reporter and
24   Notary Public, State of Florida at
             Large; my commission expires 2-24-00.
25