

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of
Proposed Rule 25-24.845,
F.A.C., Customer Relations;
Rules Incorporated, and
Proposed Amendments to Rules
25-4.003, F.A.C., Definitions,
25-4.110, F.A.C., Customer
Billing; 25-4.118, F.A.C.,
Interexchange Carrier
Selection; and 25-24.490,
F.A.C. Customer Relations;
Rules Incorporated.

DOCKET NO. 970882-TI



FIRST DAY - MORNING SESSION

VOLUME 3

Pages 315 through 511

PROCEEDINGS: RULE HEARING

BEFORE: CHAIRMAN JULIA L. JOHNSON
 COMMISSIONER J. TERRY DEASON
 COMMISSIONER SUSAN F. CLARK
 COMMISSIONER JOE GARCIA
 COMMISSIONER E. LEON JACOBS, JR.

DATE: Monday, February 16, 1998

TIME: Commenced at 2:00 p.m.

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

REPORTED BY: JOY KELLY, CSR, RPR
 Chief, Bureau of Reporting
 H. RUTHE POTAMI, CSR, RPR
 Official Commission Reporters

APPEARANCES:

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1 **APPEARANCES:**

2 **NANCY B. WHITE**, c/o Nancy Sims, 150 South
3 Monroe Street, Suite 400, Tallahassee, Florida 32301,
4 and **JOHN R. MARKS**, Katz, Kutter, Haigler, Alderman,
5 Bryant & Yon, P.A., 106 East College Avenue,
6 Tallahassee, Florida, appearing on behalf of **BellSouth**
7 **Telecommunications.**

8 **BENJAMIN FINCHER** and **MONICA BARONE**, 3100
9 Cumberland Circle, Atlanta, Georgia, 30399, and
10 **EVERETT BOYD**, Ervin, Varn, Jacobs & Ervin, 305 South
11 Gadsden Street, Tallahassee, Florida, appearing on
12 behalf of **Sprint Communications Company, Limited**
13 **Partnership.**

14 **CHARLES REHWINKEL**, 1313 Blairstone Road,
15 Tallahassee, Florida 32302, appearing on behalf of
16 **Sprint-Florida, Incorporated.**

17 **J. JEFFRY WAHLEN**, Ausley & McMullen, Post
18 Office Box 391, Tallahassee, Florida 32302, appearing
19 on behalf of **ALLTEL Florida.**

20 **MARSHA E. RULE**, AT&T Communications of the
21 Southern States, Inc., 101 East College Avenue, Suite
22 700, Tallahassee, Florida 32301-1509, appearing on
23 behalf of **AT&T Communications of the Southern States,**
24 **Inc.**

25

1 **APPEARANCES CONTINUED:**

2 **RICHARD D. MELSON**, Hopping Green Sams and
3 Smith, Post Office Box 6526, Tallahassee, Florida
4 32314, and **MARSHA WARD**, 780 Johnson Ferry Road, Suite
5 700, Atlanta, Georgia 30342, appearing on behalf of
6 **MCI Telecommunications Corporation.**

7 **PATRICK K. WIGGINS**, Wiggins & Villacorta,
8 P. A., Post Office Drawer 1657, Tallahassee, Florida
9 32302, appearing on behalf of **BCI Corporation** and
10 **Excel Telecommunications, Inc.**

11 **DONNA CANZANO**, Wiggins & Villacorta, P. A.,
12 Post Office Drawer 1657, Tallahassee, Florida 32302,
13 appearing on behalf of **Intermedia Communications.**

14 **JOSEPH A. MCGLOTHLIN** and **VICKI GORDON**
15 **KAUFMAN**, McWhirter, Reeves, McGlothlin, Davidson, Rief
16 and Bakas, 117 South Gadsden Street, Tallahassee,
17 Florida 32301, appearing on behalf of the **Florida**
18 **Competitive Carriers Association**, **LCI International**
19 **Telecom Corporation** and **Telecommunications Resellers**
20 **Association.**

21 **SUZANNE SUMMERLIN**, 1311 Paul Russell Road,
22 Tallahassee, Florida, appearing on behalf of **Furst**
23 **Group, Inc.** and **Supra Telecommunications & Information**
24 **Systems, Inc.**

25

1 **APPEARANCES CONTINUED:**

2 **CHARLES J. BECK**, Deputy Public Counsel,
3 Office of Public Counsel, 111 West Madison Street,
4 Room 812, Tallahassee, Florida 32399-1400, appearing
5 on behalf of the Citizens of the State of Florida.

6 **DENIS A. DEAN**, Office of Attorney General,
7 PL-01, The Capitol, Tallahassee, Florida 32399-1050,
8 appearing on behalf of the Office of the Attorney
9 General.

10 **KIM CASWELL**, One Tampa City Center, Tampa,
11 Florida 33601, appearing on behalf of GTE Florida
12 Incorporated.

13 **FLOYD SELF**, Messer, Caparello & Self,
14 215 S. Monroe Street, Tallahassee, Florida 32399,
15 appearing on behalf of WorldCom.

16 **RONALD MARLOWE** and **GAVIN KAHN**, 855 SW 78th
17 Avenue, Plantation, Florida 33324, appearing on behalf
18 of American Telenet.

19 **MARCY GREEN**, Swidler & Berlin, 3000 K Street NW,
20 Suite 300, Washington, D.C. 2007-5116, appearing on behalf
21 of State Communications.

22 **MARK HERRON**, Akerman Law Offices, 216 S. Monroe
23 Street, Tallahassee, Florida 32301, appearing on behalf
24 of BellSouth BSE and BellSouth Long Distance.

25

1 **APPEARANCES CONTINUED:**

2 **DIANA CALDWELL, Florida Public Service**
3 **Commission, Division of Appeals, 2540 Shumard Oak**
4 **Boulevard, Tallahassee, Florida 32399-0862, appearing**
5 **on behalf of the Commission Staff.**

6

7 **ALSO PRESENT:**

8 **RICK MOSES, FPSC Division of Communications**
9 **KATHY LEWIS, FPSC Division of Regulatory**
10 **Research and Review**

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P R O C E E D I N G S

(Hearing reconvened at 2:00 p.m.)

CHAIRMAN JOHNSON: We're going to go ahead and reconvene the hearing. We're here in Docket 970882-TI. Are there any preliminary matters?

(No response.)

Are we ready to have the first witness? Have you been sworn?

MR. FINCHER: Madam Chairman, may I interject? My name is Benjamin Fincher representing Sprint, and I was not present at the first day of the hearing. Could I enter an appearance at this time?

CHAIRMAN JOHNSON: Please.

MR. FINCHER: Benjamin Fincher, 3100 Cumberland Circle, Atlanta, Georgia 30339, appearing on behalf of Sprint Communications Company, Limited Partnership.

CHAIRMAN JOHNSON: Okay. And whose witness is on the stand?

MS. RULE: This is Mr. Watts for AT&T.

CHAIRMAN JOHNSON: Okay. Now, are we going to stay with the original order of witnesses? I understood that we might change the order of witnesses. So we're set with Mr. Watts going first?

MS. RULE: Yes. On the last hearing day we

1 were discussing moving the order of witnesses, but
2 since we've reconvened another day and we're all here,
3 we don't need to do that.

4 **CHAIRMAN JOHNSON:** Okay. And Mr. Watts was
5 sworn, was he not, at the last hearing?

6 **WITNESS WATTS:** That's correct.

7 **CHAIRMAN JOHNSON:** Okay. Then we'll
8 proceed.

9 - - - - -

10 **JERRY WATTS**

11 was called as a witness on behalf of AT&T
12 Communications of the Southern States, Inc., and,
13 having been duly sworn, testified as follows:

14 **DIRECT EXAMINATION**

15 **BY MS. RULE:**

16 **Q** Could you state your name and address for
17 the record, please?

18 **A** My name is Jerry Watts. My business address
19 is 1200 Peachtree Street, Atlanta, Georgia.

20 **Q** And how are you employed?

21 **A** By AT&T Corporation.

22 **Q** And your position?

23 **A** I'm the director of regulatory priorities
24 and plans for AT&T, Southern Region.

25 **Q** And did you cause to be prepared and filed

1 in this docket two items of testimony consisting of
2 one item of direct testimony and one exhibit and one
3 item of rebuttal testimony?

4 A Yes.

5 Q Do you have any changes or corrections to
6 make to that testimony?

7 A Yes, I do.

8 Q Could you make them, please?

9 A All right. These are changes to my direct
10 testimony. At Page 5, Line 23, we need to insert
11 "residential" before "sales". And on Page 8, Line 6,
12 we need to strike "complaints received" and insert
13 "sales".

14 And then the only other change I had is that
15 I have some updated information. I had filed an
16 exhibit with my testimony, and since I filed my
17 testimony, the FCC has issued another carrier report
18 card and has updated that information. The prior
19 exhibit had 1995 information in it, and the new
20 exhibit has 1996 information.

21 MS. RULE: Commissioners, you should have
22 that before you now marked as AT&T Exhibit JWW-2.

23 Q (By Ms. Rule) With those changes and
24 corrections, Mr. Watts, if I ask you the same
25 questions today, would your answers be the same?

1 A They would.

2 MS. RULE: I'd like Mr. Watts' prefiled
3 direct and rebuttal testimony inserted into the record
4 as though read.

5 CHAIRMAN JOHNSON: It will be so inserted.

6 Q (By Ms. Rule) Mr. Watts, have you prepared
7 a summary of your testimony plus some additional
8 comments on specific rules?

9 A Yes, I have.

10 Q Could you please give that summary now?

11 A Commissioners, slamming is an industry and
12 consumer problem which is currently receiving a great
13 deal of attention from regulators, legislators,
14 telecommunications companies and the media.

15 The cumulative expense of investigating and
16 resolving these complaints is substantial, as is the
17 irritation and inconvenience experienced by consumers.

18 AT&T loses consumers and substantial revenue
19 to slamming by other carriers. During 1994, 7% of
20 AT&T's customers who were switched to other carriers
21 reported they had been slammed. Of the customers who
22 testified at the public hearings and those who wrote
23 letters to the Public Counsel, many more were slammed
24 away from AT&T than any other carrier. This bears out
25 our belief that we lose more customers from slamming

1 than any other long distance company.

2 Obviously AT&T has a direct financial
3 interest in preventing slamming. AT&T complies with
4 all Commission and FCC carrier selection rules and has
5 implemented internal processes and procedures to
6 prevent slamming. Additionally, AT&T has initiated
7 programs to make customers aware of slamming and to
8 educate customers on steps they can take to avoid
9 being slammed.

10 Nevertheless, given the enormous number of
11 PIC changes made every year and the millions of
12 carrier selection contacts, it is unrealistic to
13 expect perfection. The Commission must look at
14 slamming complaints in context and should not
15 determine the extent of the problem by looking at raw
16 numbers of slamming complaints.

17 For example, 50 million carrier selections
18 occurred in 1997. Based on population statistics, we
19 can assume that approximately 2.75 million of these
20 PICs occurred in Florida. During 1997, the Commission
21 Staff believes that there were approximately 1,500
22 slamming infractions. That's 1,500 out of
23 approximately 2,750,000, and that is only a small
24 fraction of 1%.

25 That is, admittedly, an estimate, but even

1 if you assume that the number is actually 10 times
2 greater and that all of them were justified, still
3 that means that 2,735,000 PIC changes occurred in
4 1997, or about 99.5% of the total, not due to
5 slamming, but because those customers found a better
6 deal.

7 Customers want the ability to change
8 carriers quickly and easily to take advantage of
9 competition in the telecommunications industry.
10 Competition in the long distance industry is robust as
11 competitors strive to acquire new customers and retain
12 those customers. As in any competitive market with a
13 large number of competitors, there will always be some
14 overzealous sales contacts which misrepresent the
15 vendor and/or the product.

16 In fact, our analysis of the complaints in
17 Public Counsel's exhibits in the public hearings
18 indicate that a significant number involve other
19 companies misrepresenting themselves as AT&T. The
20 Commission can and should prohibit deceptive marketing
21 practices, but it should not impose the enormous
22 regulatory cost that companies and their customers
23 would incur under these new rules when lower cost
24 alternatives are available.

25 Before commenting on a specific rule or

1 provisions, I'd like to tell you about some proactive
2 steps AT&T has taken to reduce slamming complaints.
3 On January 1st, AT&T instituted a new, more customer
4 friendly procedure for dealing with customer slamming
5 complaints.

6 Under the new procedures, if a customer
7 service representative receives a complaint about a
8 PIC change, they can immediately transfer the customer
9 to a specially trained customer satisfaction
10 representative who has on-line information capability.
11 That way they can tell the customer during the same
12 phone call when and where their service was changed to
13 AT&T.

14 The customer satisfaction representative is
15 responsible for doing whatever it takes to satisfy the
16 customer. They can rerate charges, provide credits,
17 and pay for changing a customer to another carrier.
18 They do this while the customer is on line, even if
19 our records indicate that the customer authorized the
20 change. Customers like this new process. We believe
21 it will substantially reduce AT&T slamming complaints
22 and give us the opportunity to win back these
23 customers in the future.

24 In addition to our new customer service
25 program, we've initiated an educational program

1 targeting the Hispanic community. We chose this
2 market segment because Hispanic customers are twice as
3 likely as other customers to be slammed. The new
4 program utilizes brochures and public service
5 announcements to inform Hispanic customers on how to
6 protect themselves against slamming.

7 AT&T has also worked with Call For Action, a
8 nonprofit network of consumer hotlines to produce a
9 slamming video in Spanish. In the case of the
10 Hispanic community, AT&T identified a specific problem
11 and has taken steps to educate and inform those
12 customers. Similarly, the Commission should analyze
13 problem areas and problem companies and take targeted
14 action to strengthen rules and enforcement efforts.

15 Now I'd like to talk to you about the
16 proposed rules. As you are aware, AT&T and others
17 have expressed concerns regarding the cost feasibility
18 and effectiveness of the proposed rules, and
19 unfortunately carriers who are not complying with
20 existing rules are unlikely to voluntarily comply with
21 the new rules. Carriers who intentionally and
22 repeatedly break the rules will find a way to break
23 these rules, too.

24 The Commission should target these companies
25 for strong enforcement action. Rather than go over

1 every detail of the rules today, I'm going to explain
2 AT&T's major concerns with some of the new
3 requirements.

4 We believe the rule relating to selection of
5 providers has serious flaws. When a potential
6 customer calls our 800 number, the rule would require
7 us to record the call and obtain specified
8 information, and the customer would have to call in
9 using the actual phone line he wanted to have PIC'd to
10 AT&T. This presents some problems.

11 A customer with a phone line and fax line
12 would apparently have to call in separately on each
13 line or we would be unable to make the switch.
14 Customers wouldn't be able to call from their place of
15 work, although many people use their lunch hour to
16 take care of this type of personal business. And
17 internally, in order to provide prompt service, our
18 call centers transfer customers to the first available
19 operator in one of several locations. The customer
20 ANI could not be captured after such a transfer making
21 it impossible for AT&T to comply with this rule. This
22 would greatly increase transaction costs because we
23 would be forced to use expensive third-party
24 verification on these calls instead.

25 We do not believe that the recording of

1 contacts and verification will prevent slamming by
2 unscrupulous carriers. To the contrary, recorded
3 responses can be manipulated and are not foolproof.

4 We also suggest that the Commission modify
5 the new rule requirements regarding informational
6 packages. The way the rule is written, when a
7 customer chooses a provider and the provider sends a
8 customer an informal package -- an informational
9 package, the customer must again request the change by
10 sending back the postcard.

11 Our experience has been that customers want
12 to change carriers as quickly and efficiently as
13 possible, and this requirement would only increase the
14 amount of time customers must wait to receive their
15 chosen service. The current process allows the
16 customer to change his mind and deselect a carrier by
17 sending the postcard, and there doesn't appear to be
18 any evidence that this process is insufficient.

19 We also oppose the rule that requires
20 unauthorized providers to credit the customer with all
21 charges for up to 90 days. Commissioners, we believe
22 this rule will increase, not decrease, complaints.

23 AT&T agrees that customers shouldn't suffer
24 financially when they're switched to another carrier
25 without their consent, but the best remedy is an

1 immediate switch to their chosen carrier along with a
2 prompt rerate to make them whole. But free service
3 for 90 days does much more than make a customer whole,
4 and it will encourage toll fraud and delayed
5 reporting, and companies faced with loss of revenue
6 will be forced to fight each complaint, greatly
7 increasing their transaction cost and regulatory
8 costs. Like all business costs, they eventually must
9 be passed on to consumers.

10 Moreover, Section 258 of the Telecom Act
11 provides a powerful new right of action for slammed
12 carriers which would be thwarted if customers are not
13 required to pay for calls they make. Specifically the
14 Act provides that the slamming carrier -- and I'm
15 quoting "shall be liable to the carrier previously
16 selected by the subscriber in an amount equal to all
17 charges paid by such subscriber after such violation,"
18 closed quote.

19 This provision is critical because it
20 provides a new and meaningful incentive for the
21 industry to self-regulate. In the past slammed
22 carriers could only recover lost profit, which was
23 difficult to prove. With the new language, carriers
24 can go after all lost revenue by taking action against
25 the offending carrier. The FCC is currently

1 considering appropriate rules to facilitate this
2 process.

3 You may recall that a number of people who
4 testified at the public hearing said they just didn't
5 look at their phone bills. Those same customers
6 probably also receive bank statements or credit card
7 statements, and if they don't examine them properly,
8 they can lose their right to redress.

9 Customers must also be encouraged to monitor
10 their telephone bills and promptly report any
11 problems. In fact, the Commission's proposal to
12 require notice on the bill of provider changes makes
13 this process even easier for consumers. The
14 Commission shouldn't undermine this goal by providing
15 an incentive for customers not to review their
16 statements.

17 Finally, the rule also requires a follow-up
18 notification letter to new customers after third-party
19 verification. Third-party verification is itself a
20 follow-up measure, and further follow-up is
21 unnecessary. AT&T believes this is redundant and will
22 increase costs without providing a corresponding
23 benefit.

24 Commissioners, the keys to reducing the
25 number of slamming complaints are consumer education,

1 industry cooperation, and effective enforcement. The
2 ability to pursue these objectives will be best served
3 by uniform rules and standards across all
4 jurisdictions.

5 AT&T supports state regulations which mirror
6 the existing and forthcoming FCC rules. Consistent
7 rules which are effectively communicated and fairly
8 enforced will help customers understand their rights
9 and improve carrier compliance.

10 Conversely, inconsistent rules will cause
11 customer and carrier confusion and complicate
12 education and enforcement activities. Inconsistent
13 rules across 51 jurisdictions will add
14 substantially -- will add substantial operating costs
15 to carriers which will ultimately be borne by their
16 customers.

17 In conclusion, Commissioners, AT&T
18 recommends that you defer action on new rules until
19 the FCC issues an order in its existing rules
20 proceeding. When the FCC releases its rules, the
21 Commission can determine if those rules are adequate
22 or if additional rules are needed, and in so doing,
23 you can avoid imposing enormous regulatory costs on
24 carriers who would otherwise need to develop expensive
25 Florida-specific procedures and databases; and as you

1 know, such costs ultimately are passed on to
2 consumers.

3 I realize that if you are the customer who
4 gets slammed, one slam is too many. When my service
5 was slammed a few years ago, it was an irritating
6 experience and I was outraged. However, as emotional
7 as this issue is, I urge the Commission to put this
8 problem in perspective before adopting new rules which
9 could increase the cost of long distance calls for
10 millions of consumers and inhibit their ability to
11 freely shop for the best value in telecommunications
12 services.

13 That concludes my summary.

14 MS. RULE: Commissioners, before tendering
15 Mr. Watts for cross-examination, I'd like to have his
16 exhibits identified. He has Exhibit JWW-1 and 2, and
17 I'd like them identified as a composite.

18 CHAIRMAN JOHNSON: We'll identify those as
19 Composite Exhibit 5.

20 MS. RULE: Thank you. Mr. Watts is
21 available for questioning.

22 (Exhibit 5 marked for identification.)
23
24
25

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

DOCKET NO. 970882-T1

DIRECT TESTIMONY

OF

JERRY W. WATTS

**ON BEHALF OF
AT&T COMMUNICATIONS OF THE
SOUTHERN STATES, INC.**

November 24, 1997

1 DIRECT TESTIMONY OF

2 JERRY W. WATTS

3 ON BEHALF OF

4 AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC.

5 DOCKET NO.: 970882-TI

6

7 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

8

9 **A.** My name is Jerry W. Watts. My business address is 1200 Peachtree Street N.E.
10 Atlanta, Georgia, 30309.

11

12 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**
13 **WORK EXPERIENCE.**

14

15 **A.** I received a Bachelor of Science degree in Business Administration with a major
16 in Accounting from Auburn University in 1971. I have been employed by AT&T
17 since 1968. My work experience includes 15 years with Southern Bell and South
18 Central Bell in customer service and public affairs assignments. Since 1983, I
19 have held various public affairs positions with AT&T with responsibility for state
20 and federal advocacy as well as state regulatory case management. My current
21 position is Division Manager-Regulatory Priorities and Plans for AT&T's
22 Southern Region.

23

24 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

25

1 A. The purpose of my testimony is to discuss AT&T's position regarding the
2 regulation of "slamming" and to describe AT&T's procedures and initiatives to
3 prevent slamming. I will also discuss the considerations that the Florida Public
4 Service Commission ("Commission") should take into account when making
5 slamming rules.

6
7 Q. DOES YOUR TESTIMONY INCLUDE COMMENTS ON SPECIFIC
8 RULES?

9
10 A. No. The Commission has not yet proposed specific slamming rules. AT&T will
11 file formal comments on such rules after they are proposed, and reserves the right
12 to supplement its testimony in support of such comments.

13
14 Q. PLEASE COMMENT ON SLAMMING AND ITS IMPACT ON AT&T.

15
16 A. First of all, the Commission should recognize that not all PIC disputes are caused
17 by slams, but may arise from causes other than slamming. For example, a spouse
18 or other household member may change carriers without express authorization
19 from the account holder; a new customer may run up a larger-than-usual bill and
20 have second thoughts about the validly-selected carrier; a person who frequently
21 changes carriers (sometimes called a "spinner") may wish to avoid PIC change
22 charges; or a data entry error may be made when switching carriers pursuant to a
23 valid request. In all of these cases, the provider would have followed established
24 procedures for carrier selection, but there nevertheless would be a PIC dispute.

1 Slamming, on the other hand, is the knowing, unauthorized transfer of a
2 customer's primary long distance carrier. Usually, the carrier also fails to follow
3 prescribed verification methods which would detect and often preclude the
4 unauthorized change. A frequent slamming scenario involves a company
5 masquerading as AT&T and offering customers a "new billing plan" which
6 actually consists of a PIC change to the other company. A substantial number of
7 slams result from unscrupulous companies that simply submit lists of billed
8 telephone numbers to LECs without ever having contacted the customer at all. In
9 a 1994 survey, for example, AT&T found that 15% of its Hispanic customers who
10 had been switched without authorization reported that they were not contacted by
11 the new carrier before the change was made. And, despite the Commission's rule
12 outlawing "misleading or deceptive" PIC change documents, some companies
13 continue to use LOAs whose true purpose is difficult or impossible to ascertain.
14 Regrettably, individuals sometimes also forge LOAs despite stringent procedures
15 designed to prevent such occurrences.

16
17 Slamming is a serious problem for telecommunications companies as well as the
18 Commission. In 1996, the FCC received more than 16,000 slamming complaints
19 and the Florida Public Service Commission received 2,393 slamming complaints.
20 The cumulative expense of investigating and resolving these complaints is
21 substantial, as is the irritation and inconvenience experienced by consumers.
22 Additionally, AT&T loses customers -- and revenue -- to slamming by other
23 carriers: during 1994, seven percent of AT&T's customers who were switched to
24 other carriers reported that they had been slammed away from AT&T. Slamming
25 deprives telecommunications companies of millions of dollars of revenue

1 annually. Obviously, AT&T has a direct financial interest in preventing
2 slamming.

3
4 **Q. WHAT GOALS SHOULD THE COMMISSION ATTEMPT TO**
5 **ACCOMPLISH IN MAKING SLAMMING RULES?**

6
7 **A.** The Commission should strive to prevent slamming from occurring through the
8 enforcement of slamming regulations which are not unduly confusing to
9 consumers or burdensome on telecommunication carriers.

10
11 **Q. WHAT PROCEDURES DOES AT&T HAVE IN PLACE TO PREVENT**
12 **SLAMMING?**

13
14 **A.** AT&T currently has verification procedures which conform to the existing Florida
15 and FCC rules for both inbound and outbound PIC change requests. Customers
16 who choose AT&T in response to outbound solicitations are transferred to a third-
17 party verification representative to independently verify their selection. Business
18 customers can verify their request via written authorization if they indicate they
19 do not wish to stay on the line for the third-party verification. On inbound
20 requests, notations are made on the screen regarding the person requesting the
21 change and a confirmation letter is sent to the customer. All customer contacts
22 can be traced back to the individual handling the call so that problems can be
23 identified and dealt with appropriately. Both ^{residential} sales representatives and third-party
24 verifiers are compensated on an hourly wage basis and do not receive
25 compensation based on volume of sales.

1 Moreover, AT&T has initiated additional procedures for contracted temporary
2 personnel who are involved in face-to-face solicitations. These additional
3 procedures include the following:

- 4
- 5 • Policies and procedures pertaining to face-to-face marketing, including all
6 slamming and contest guidelines, are reviewed on a monthly basis with
7 contracted temporary personnel and quarterly with AT&T sales
8 management.
- 9
- 10 • In face-to-face marketing, all customer names and signatures are verified
11 at the point of sale through customer provided identification to ensure the
12 name of the individual authorizing carrier selection on the letter of agency
13 (LOA) matches the identification provided.
- 14
- 15 • Contracted temporary personnel who interface directly with customers are
16 paid on an hourly basis instead of a volume-driven compensation plan.
- 17
- 18 • LOAs are coded so customer dissatisfaction can be traced directly to the
19 individual who handled the transaction and corrective action can be
20 enforced in a timely manner.
- 21

22 These and other steps have been initiated by AT&T to prevent the processing of
23 unauthorized PIC change requests.

24

1 **Q. WHAT OTHER INITIATIVES HAS AT&T TAKEN TO REDUCE**
2 **SLAMMING COMPLAINTS?**

3

4 **A. AT&T has engaged in consumer education programs to inform consumers about**
5 **the dangers of slamming and is now focusing on the non-English speaking public**
6 **which are unique targets for slamming.**

7

8 On October 9, 1997, AT&T announced an anti-slamming consumer education
9 program for the Hispanic market. A recent survey indicated that Hispanic
10 customers are twice as likely to be slammed as other customers. The new
11 program will utilize a brochure and public service announcements to inform
12 Hispanic customers on how to protect themselves against the unauthorized
13 switching of their chosen long distance carrier. The National Council of La Raza
14 (an organization which is urging awareness in the Hispanic community) is
15 distributing the brochures through its member organizations nationwide. The
16 bilingual brochure provides consumers with clearly stated ways to avoid being
17 slammed.

18

19 **Q. GIVEN THE STEPS TAKEN BY AT&T TO PREVENT SLAMMING,**
20 **HOW CAN CUSTOMERS BE SWITCHED TO AT&T WITHOUT**
21 **PROPER AUTHORIZATION?**

22

23 **A. Due to the enormous number of telephone and face-to-face customer contacts**
24 **conducted by AT&T and other carriers, it would be unrealistic to expect this**
25 **problem to be eliminated entirely. There will always be some level of error,**

1 whether caused by a slipped keystroke or customer confusion. Historically,
2 however, when compared to other carriers or as a percent of total complaints,
3 AT&T's rate of complaints for unauthorized PIC changes is quite low. A review
4 of Florida slamming complaints received by the AT&T consumer customer
5 service centers for the past three years averaged less than one third of one percent
6 of total ^{Sales} ~~complaints received~~. Additionally, AT&T compares favorably with other
7 carriers in limiting the number of slamming complaints. Attached as Exhibit
8 JWW-1 is the latest FCC "Slamming Complaint Ratio Report." This report
9 shows that during 1995 only Sprint had a lower ratio than AT&T and that as a
10 percent of communications revenue, AT&T had only three tenths of one percent
11 slamming complaints while the seven worst offenders ranged from approximately
12 one percent to almost ten percent .

13

14 **Q. IS IT POSSIBLE TO STOP SLAMMING COMPLETELY?**

15

16 **A.** No. The inter-exchange industry operates in an intensely competitive and robust
17 market. Due to the large number of competitors, multiple marketing channels,
18 and millions of customer transactions each year, there will be some carrier
19 selections which are not handled properly. Moreover, in any competitive market
20 there will always be unscrupulous vendors who will only respond to enforcement
21 action by federal and state agencies.

22

23 **Q. WHAT IS AT&T'S POSITION REGARDING STATE ACTION TO**
24 **PREVENT SLAMMING?**

1 A. AT&T supports state regulations which mirror the existing and forthcoming FCC
2 rules. This will ensure consistency in application, implementation, and
3 enforcement. If states adopt separate requirements, consumers would be
4 confused, and national and regional carriers would face huge financial and
5 administrative burdens in dealing with up to 51 differing sets of regulations.
6 These additional costs would ultimately be borne by consumers and the important
7 goal of promoting robust competition in telecommunication markets would be
8 undermined. Instead of new rules, AT&T strongly endorses more vigorous
9 enforcement of the existing requirements. We believe that most incidents of
10 slamming can be eliminated through effective enforcement of these rules by state
11 agencies such as public utility commissions and state attorneys general and by the
12 FCC.

13

14 Q. DOES AT&T SUPPORT EXTENDING THE EXISTING VERIFICATION
15 REQUIREMENTS TO BOTH INTRALATA AND LOCAL CARRIER
16 SELECTION?

17

18 A. Yes. The current verification rules, if properly adhered to and enforced, should be
19 effective in preventing unauthorized changes of customers' intraLATA and local
20 providers.

21

22 Q. DOES AT&T HAVE ANY CONCERNS REGARDING THE ROLE OF
23 INCUMBENT LOCAL EXCHANGE COMPANIES IN ENFORCING
24 SLAMMING REGULATION?

25

1 **A.** **Yes. The incumbent local exchange companies are no longer disinterested or**
2 **neutral parties regarding the promulgation and enforcement of slamming**
3 **regulations. The advent of intraLATA and local carrier selection requires**
4 **diligence by the FCC and the state commissions to ensure that rules and**
5 **procedures do not advantage incumbent local exchange companies in the local,**
6 **intraLATA or interLATA carrier selection process.**

7

8 **Q.** **SHOULD ADDITIONAL SAFEGUARDS BE ADOPTED BY THE**
9 **COMMISSION TO PROTECT CONSUMERS FROM SLAMMING?**

10

11 **A.** **No. The continuing slamming problems experienced by Florida consumers are**
12 **largely the result of non-compliance with the existing rules.**

13

14 **Q.** **WHAT ACTION SHOULD THE COMMISSION TAKE TO PROTECT**
15 **FLORIDA CONSUMERS FROM SLAMMING?**

16

17 **A.** **The Commission should take whatever steps are necessary to ensure that its rules**
18 **are consistent with the rules adopted by the FCC and that these rules are**
19 **vigorously enforced throughout the State of Florida.**

20

21 **Q.** **DOES THIS CONCLUDE YOUR TESTIMONY?**

22

23 **A.** **Yes.**

24

25

1 through November 1996. Additionally, AT&T's complaints declined from 280 in
2 1996 to 196 in 1997 resulting in a 30% reduction in Florida. Current data
3 suggests that enforcement of the existing rules and industry initiatives are
4 reducing the number of slamming complaints.

5
6 **Q. WHAT OTHER FACTORS COULD HAVE CONTRIBUTED TO THE**
7 **INCREASE IN SLAMMING COMPLAINTS IN FLORIDA FROM 1992**
8 **THROUGH 1996?**

9 **A.** There was a dramatic increase in the number of competing carriers during this
10 period. In 1992, there were 230 certificated interexchange carriers operating in
11 Florida and by 1996, the number had risen to 497. The increase in competitors
12 would have resulted in the following effects:

- 13 ⇒ a substantial increase in account acquisition activity;
- 14 ⇒ more new carriers operating with less knowledge and experience in
15 complying with anti-slamming rules;
- 16 ⇒ increase in the number of resellers, and
- 17 ⇒ the increased likelihood of some unethical business practices by
18 unscrupulous carriers.

19 All of these factors would tend to increase the number of slamming complaints.
20 Moreover, the increased number of carriers would make enforcement action more
21 difficult which could also result in more complaints.

22
23 **Q. WHAT ARE YOUR CONCERNS REGARDING MR. TAYLOR'S**
24 **TESTMONY?**

25 **A.** Mr. Taylor asserts that his recommendations "balance the benefits of a

1 competitive market with the needs of consumers to have control over their
2 telephone service." Although this is a reasonable objective, there is no indication
3 in his testimony that any cost benefit analysis has been conducted. The costs of
4 imposing new restrictive rules includes more than the direct costs to the carriers.
5 It is equally important to consider the dampening effects on both long distance
6 and local competition. FCC Commissioner Ness expressed this concern in her
7 October 14, 1997, testimony before Congress:

8
9 "...And we ask whether rules are needed to address
10 preferred carrier freezes. In a freeze, local carriers
11 get consumers to authorize the blocking of future
12 carrier changes unless the consumer gives his or her
13 written or oral consent to the blocking carrier—not
14 just to the requesting carrier.

15
16 As local competition arrives, the blocking carrier is
17 poised to compete for long distance with the
18 requesting carrier. Thus the local exchange carrier
19 may no longer be acting as a neutral third party, but
20 may have instituted freeze procedures for anti-
21 competitive reasons. In drafting our rules, we must
22 be vigilant to avoid deferring lawful competition as
23 we work to eliminate slamming...."

24
25

1

2 **Q. WHAT IS AT&T'S POSITION REGARDING THE ADDITIONAL RULES**
3 **PROPOSED BY THE PUBLIC COUNSEL'S OFFICE IN MR.**
4 **POUCHER'S TESTIMONY?**

5 **A. Mr. Poucher recommends several rule changes in addition to the changes**
6 **proposed by the Commission. AT&T opposes state rules which are inconsistent**
7 **with the FCC rules. Uniform rules across all jurisdictions will facilitate effective**
8 **enforcement and reduce confusion for customers and carriers. The following are**
9 **AT&T's specific concerns regarding Mr. Poucher's proposals:**

10

11 Proposed Change No. 2: Upon receiving a complaint from a subscriber of an
12 unauthorized change of carriers, a LEC is required to:

- 13 (a) immediately change the customer back to the customer's original carrier,
14 (b) offer to freeze the customer's choice of carriers,
15 (c) charge back to the slamming IXC all existing billing up to 90 days or three
16 billing periods, whichever is longer, and credit the customer's LEC
17 account with the amount of the charge-back, and
18 (d) block the customer's account from future billing from the carrier that
19 caused the slam.

20

21 AT&T Response: Existing "no fault" agreements authorize the LEC to change
22 the customer back to the original carrier and charge the other carrier the applicable
23 change charge. Therefore, no new requirement is necessary. Taking further action
24 "upon receiving a complaint" and without an investigation would not be
25 appropriate.

1
2 Proposed Change No. 3: The Commission should adopt a rule stating that no
3 carrier guilty of changing a customer's choice of carriers without knowledge or
4 authorization should be allowed to bill or collect for any of the services provided
5 to the customer during the period of unauthorized service up to 90 days or 3
6 billing periods, whichever is greater.

7
8 AT&T Response: Existing rules require the unauthorized carrier to re-rate its bill
9 to the level that would have been charged to the customer in the absence of an
10 unauthorized change. With this "make whole" remedy, consumers are fully
11 insulated against exorbitant charges by another carrier in the event of an
12 unauthorized change. Absolving such customers of all charges is unnecessary to
13 achieve that objective. Moreover, absolution of customer charges from
14 unauthorized carriers would eviscerate the carefully crafted private enforcement
15 remedy provided by Congress in Section 258(b) of the Communications Act. That
16 new statutory provision makes a carrier that violates the FCC's prescribed carrier
17 change verification procedures liable to the subscriber's authorized carrier "in an
18 amount equal to the charges paid by such subscriber after such violation," in
19 accordance with rules to be adopted by the FCC. This right of action based on
20 collected revenues rather than lost profits, as under traditional measures of
21 damages, creates a powerful incentive for private enforcement by carriers injured
22 by unauthorized changes of their subscribers. Absolution of these charges would
23 remove this incentive and would discourage enforcement efforts by slammed
24 carriers.

25

1 **CHAIRMAN JOHNSON:** Any questions from this
2 end? Okay. Mr. Beck?

3 **MR. BECK:** Thank you, Chairman Johnson.

4 **CROSS EXAMINATION**

5 **BY MR. BECK:**

6 **Q** Good afternoon, Mr. Watts.

7 **A** Good afternoon.

8 **Q** I take it from your testimony that you spent
9 some time analyzing the testimony by customers at the
10 workshops the Commission held; is that right?

11 **A** I spent some time, yes.

12 **Q** How many of those workshops did you attend?

13 **A** I didn't attend any of them personally.

14 **Q** Did AT&T have representatives at each of the
15 workshops?

16 **A** I think -- I don't believe we had someone at
17 every workshop. I think we had someone in all but one
18 or two of the workshops.

19 **Q** But in any event, you've read the
20 transcripts, I take it, of all of the workshops; is
21 that right?

22 **A** I didn't read all the transcripts, no.

23 **Q** Well, which ones did you read?

24 **A** I can't recall, Mr. Beck.

25 **Q** Do you recall any that you did read?

1 **A** I recall looking over some. I don't recall
2 any details from those transcripts.

3 **Q** Earlier Chairman Johnson held a news
4 conference where she mentioned, I believe, the
5 experience of a Ms. Ella Warren who testified in
6 Pensacola, and she testified that she had been slammed
7 to AT&T through a forgery of her deceased husband's
8 signature on an LOA. Are you familiar with that
9 complaint?

10 **MS. RULE:** Commissioners, I'm going to
11 object to any questioning regarding specific incidents
12 for which AT&T may be show caused. As you're aware,
13 there is a show cause proceeding open against AT&T,
14 and I believe that putting AT&T in this position in a
15 rule hearing is inappropriate.

16 **MR. BECK:** Chairman Johnson, the only
17 question is whether it's relevant to this proceeding,
18 not whether it is or is not relevant in another
19 proceeding.

20 **MS. RULE:** I believe it raises significant
21 due process issues. We're entitled to due process of
22 the show cause proceeding. I cannot see how it's
23 relevant with regard to the specific rules that the
24 Commission is considering today.

25 Whether or not AT&T did or did not engage in

1 any particular activity in any particular case is not
2 relevant to the rules you're considering.

3 **CHAIRMAN JOHNSON:** Mr. Beck?

4 **MR. BECK:** To the contrary, to the extent
5 there have been violations of rules and slamming of
6 customers, of course it's relevant to this proceeding.
7 It shows the need for rules and what types of rules
8 need to be adopted by the Commission.

9 **CHAIRMAN JOHNSON:** And what's your question,
10 Mr. Beck?

11 **MR. BECK:** I was asking him whether he's
12 familiar with a complaint by a Ms. Ella Warren in the
13 Pensacola workshop who said she had been slammed to
14 AT&T by a forgery of a signature of her deceased
15 husband. That was the question.

16 **CHAIRMAN JOHNSON:** I'm going to allow the
17 question.

18 **WITNESS WATTS:** I'm not familiar with the
19 complaint.

20 **Q** (By Mr. Beck) And if you know, did AT&T
21 investigate the cause of that slam, if you know?

22 **A** I'm not familiar with the complaint.

23 **Q** Mr. Watts, were you here when Ms. Erdman
24 from the Public Service Commission clarified her
25 testimony about the complaints that had been received

1 by the Commission?

2 A Yes.

3 Q And does that not lead you to want to amend
4 your rebuttal testimony where you referred to those
5 complaints, Pages 1 and 2 of your rebuttal testimony?

6 A In what respect?

7 Q Well, let me direct you to Lines 22 and 23
8 of Page 1 of your rebuttal testimony where you state
9 that the data provided by the Staff shows that -- the
10 most recent data indicates a dramatic reduction in
11 slamming complaints.

12 Do you want to stand by that testimony, or
13 do you want to amend it to reflect what the Staff
14 witness said?

15 A I'm going to stand by the testimony that I
16 filed. It was unclear to me what the status of the
17 additional complaints were referred to by
18 Ms. Erdman-Bridges. So, you know, I wouldn't want to
19 amend my testimony without a better understanding of
20 that.

21 MS. RULE: Commissioners, I believe in his
22 summary, Mr. Watts did state that the nearly 1,500
23 slamming complaints referred to were determined to be
24 infractions, by the Staff. This is the precursor to
25 that 1,500 infraction number which was derived from a

1 Commission report.

2 Q (By Mr. Beck) In this portion of your
3 testimony at the bottom of Page 1 and at the top of
4 Page 2 of your testimony, you're basing that on the
5 complaints that have been received by the Florida
6 Public Service Commission; is that not right?

7 A That's correct.

8 Q Tell me what has been the direction of the
9 complaints received by AT&T concerning slamming? Has
10 it been going down also?

11 A During this period they went down.

12 Q The complaints, too, at AT&T went down?

13 A Oh, I'm sorry. Could you restate your
14 question?

15 Q Yeah. Let me go back. Your testimony
16 refers solely to the number of complaints received by
17 the Florida Public Service Commission about slamming;
18 is that right?

19 A That's correct.

20 Q Now, you get many more complaints at AT&T
21 other than just the complaints that come to the
22 Florida Public Service Commission, don't you?

23 A Are you talking about where customers call
24 us directly?

25 Q Yes.

1 A Yes.

2 Q Don't you typically get thousands per year
3 just from Florida alone to AT&T complaining of
4 slamming?

5 A I don't know the specific number for
6 Florida. You know, in response to your question, over
7 that period the studies that I have seen indicate that
8 the complaints were about constant, and that was about
9 one-third of 1% of our total sales during that period.

10 MR. BECK: Chairman Johnson, I'd like to
11 have an exhibit marked for identification.

12 CHAIRMAN JOHNSON: We'll mark this
13 Exhibit 6, short titled "AT&T Response to First Set of
14 Interrogatories to AT&T by the AG's Office and Public
15 Counsel."

16 (Exhibit 6 marked for identification.)

17 Q (By Mr. Beck) Mr. Watts, I'd like to
18 direct your attention to AT&T's response to
19 Interrogatory 1-A.

20 A All right.

21 Q Does this response not indicate that the
22 complaints to AT&T about slamming in Florida have been
23 rising through 1997?

24 A Well, it indicates that in terms of raw
25 numbers apparently that's the case. But the figure I

1 just cited to you, percent of complaints as compared
2 to total sales, again over that period was about
3 constant.

4 Q I'm sorry. Are you trying to tell me that
5 your response here would indicate a constant ratio of
6 complaints to sales?

7 MS. RULE: Could Mr. Watts have a moment to
8 review the response? He didn't prepare it, and it's
9 clear from the face of the document that he didn't;
10 and before he's asked some questions about it, I'd
11 like him to have a moment to read the questions and
12 the response.

13 WITNESS WATTS: (Pause) Well, the response
14 indicates that, you know, these are not represented to
15 be validated complaints, but simply calls.

16 MS. RULE: In fact, could I have Mr. Watts
17 just read the response into the record?

18 WITNESS WATTS: "The following figures
19 represent calls made by Florida customers to an AT&T
20 center, and thus includes all complaints, not just
21 validated complaints. These are also not represented
22 to be a total accounting of all complaints related to
23 slamming received by AT&T, because AT&T does not keep
24 its records in this fashion."

25 The only other thing I would add to that is

1 that going back to what I said originally, the
2 analysis I've seen of the percent of complaints, the
3 total sales is constant, or relatively constant, less
4 than one-third of it over this period; and that can
5 happen with the number -- even with the number of
6 complaints going up because of the number of sales
7 changing in conjunction with adding intraLATA sales to
8 our base.

9 So if you look at the total PICs over this
10 period, you would come to a different conclusion than
11 just looking at the raw numbers in terms of whether or
12 not the problem is getting worse or better.

13 Q Mr. Watts, this shows 2,483 complaints to
14 AT&T from Florida concerning slamming in 1995, does it
15 not?

16 A That's --

17 Q And do you think your sales went up enough
18 to account for the number of 4,610 in 1996 --

19 MS. RULE: I'm going to object --

20 WITNESS WATTS: Well, I don't know --

21 MS. RULE: Excuse me. I'm going to object
22 to the question. I believe it misrepresents the
23 response. The response says that they're all
24 complaints.

25 MR. BECK: Yes, it's all complaints about

1 slamming, because the interrogatory asked about the
2 complaints about slamming.

3 MS. RULE: I believe the response says it's
4 calls made by Florida customers to an AT&T center and
5 represents all complaints.

6 MR. BECK: By referring to all complaints,
7 that means all complaints about slamming, does it not,
8 Mr. Watts?

9 MS. RULE: Mr. Watts did not prepare the
10 answer to this interrogatory.

11 BY MR. BECK:

12 Q If you know, Mr. Watts.

13 A I do not know.

14 Q You'll agree that the question asks for
15 complaints about slamming? Would you agree with that?

16 A Maybe what I should do is read the question
17 into the record as well.

18 "For the calendar years 1994, 1995, 1996 and
19 for the first six months of 1997, please provide
20 separately for Florida alone and the nation as a whole
21 the number of complaints known to AT&T where the
22 customer alleged that the customer had been slammed by
23 AT&T, its sales representatives or contractors."

24 Q And would you know whether total complaints
25 about all matters to AT&T exceed these numbers or not?

1 A I do not. I don't know how to put these
2 numbers in context with what you're asking about.

3 Q Mr. Watts, does AT&T investigate all
4 complaints regarding slamming that it receives?

5 A Are you talking about inquiries received
6 directly by AT&T?

7 Q Right. A customer calls up to AT&T and
8 says, I've been slammed. Do you investigate it to
9 find out what the cause is in all instances?

10 A Well, under the new procedure that I
11 described in my summary, when a customer calls and
12 alleges a problem with the change in their carrier,
13 those calls are now referred directly realtime to
14 another customer satisfaction representative who
15 specializes in investigating this type of complaint.

16 They have substantial on-line capability to
17 determine when and how the PIC occurred, and they
18 provide the customer with that information. If the
19 customer wants more information regarding a letter of
20 authorization or other information, they make a -- I
21 think it's a five-day commitment to get back to the
22 customer.

23 So, you know, I suppose the answer to your
24 question is yes. The degree of the investigation
25 depends on what the customer asks for and how that

1 contact is handled.

2 Q Let me make sure I understand this. Whether
3 or not AT&T will determine the cause of how a slam
4 occurred depends on how insistent the customer is with
5 the AT&T representative? Or am I misconstruing your
6 testimony?

7 A I don't know if persistence is the right
8 word. It would depend on what's developed during the
9 contact with the customer. If I'm the customer
10 satisfaction representative and the customer is
11 transferred to me and the customer says, I didn't
12 authorize this change, and I look at my records on
13 line and I can determine on such-and-such a date, you
14 know, this was authorized by an individual, and I --
15 you know, I go back to the customer with that
16 information, and the customer says, oh, well, yeah,
17 that's my wife or whatever, then it may be that the
18 issue is resolved without further investigation.

19 And additionally, you know, the process that
20 we're moving to is one, I think, that values
21 satisfying the customer regardless. So even if we
22 have records that indicate that somebody authorized
23 this change, this customer satisfaction representative
24 is authorized to go ahead and make an adjustment,
25 rerate the calls, do whatever it takes to satisfy that

1 customer. We think that's in our long-term best
2 interests and hopefully gives us an opportunity to win
3 back that customer in the future.

4 Q Let me ask this, Mr. Watts: Prior to
5 January 1st, 1998, what percentage of slamming
6 complaints received by AT&T did AT&T investigate?

7 A Well, I guess it -- that would be determined
8 by how you define "investigation". My understanding
9 of the prior process is that they were all referred to
10 a special group, and that the customer was contacted,
11 and that an investigation was undertaken. Now, to
12 what extent that investigation -- I mean, you know, in
13 what depth or what they looked into is another issue.

14 We had another procedure at that time that
15 also gave the customer another option on the initial
16 contact, and that option, I believe, was that if the
17 customer did not want an investigation once we said to
18 the customer we'll send you a -- I think we typically
19 sent a \$5 LD certificate to reimburse the customer for
20 the change, if the customer was satisfied with that
21 action, then we didn't take any action -- any other
22 action beyond that. So it was a two-pronged process
23 that was determined by what the customer wanted us to
24 do.

25 Q Could you look at your response to

1 Interrogatory No. 5 in the exhibit that was handed
2 out?

3 MS. RULE: I'm going to object. Mr. Watts
4 didn't prepare any response to Interrogatory No. 5.

5 MR. BECK: Well, we'll see if he's familiar
6 with it.

7 WITNESS WATTS: All right, I'm there.

8 Q (By Mr. Beck) Are you familiar with the
9 statistic that's provided that AT&T was investigating
10 approximately 17% of its slamming complaints in
11 Florida?

12 A No. I haven't seen this response or
13 reviewed it. I'm not surprised by it.

14 Q Why does it not surprise you?

15 A Well, that number would be determined by the
16 reaction of the response we obtained from the customer
17 during that initial contact. I mean, it's our
18 objective to satisfy the customer. And if the gift
19 certificate and getting the customer changed back to
20 his original carrier, if that satisfied the customer,
21 didn't take up any more of his time and the customer
22 was pleased with that, then we certainly wouldn't
23 engage in an investigation for no purpose.

24 Q Wouldn't it be a proper purpose to determine
25 how the slamming occurred so it could be prevented in

1 the future? Or is not AT&T interested in that?

2 **A** Well, if you're investigating a significant
3 number of these complaints, you're going to get
4 information from that. If you're handling millions of
5 contacts and the percent of slamming complaints is
6 less than one half of 1% out of those, then you have
7 to make some decisions about, you know, how much
8 expense you're going to incur to investigate
9 complaints when the customer has no interest in you
10 investigating the complaint.

11 **MR. BECK:** Thank you, Mr. Watts. I have no
12 other questions.

13 **CHAIRMAN JOHNSON:** Mr. Gross, no questions?
14 Staff?

15 **CROSS EXAMINATION**

16 **BY MS. CALDWELL:**

17 **Q** Good afternoon, Mr. Watts. I'm Diana
18 Caldwell with the Florida Public Service Commission.

19 Can you tell us when the FCC's proposed
20 rules on slamming will be adopted?

21 **A** No, I cannot.

22 **Q** You don't have an exact date?

23 **A** I do not. The comment cycle has gone
24 through the initial comments and the response to those
25 comments, and my general understanding is, is that the

1 action that's required has been taken to allow the
2 Commission to go forward with a decision in that case;
3 but I don't have a date certain that they would be
4 taking action.

5 Q Is there a possibility that they would not
6 go forward and adopt those rules?

7 A Which rules are you referring to?

8 Q The proposed rules related to slamming.

9 A I think it's unlikely that they won't adopt
10 rules, because some of the rules, as you are aware,
11 have to do with Section 258 of the Telecommunications
12 Act, and the Commission was authorized to promulgate
13 rules that will allow the implementation of those
14 provisions of the Act. So it seems unlikely to me
15 that they wouldn't go forward with rules.

16 Q Do you know whether the FCC rules as
17 proposed relating to slamming in this docket will be
18 adopted as proposed? Do you think they'll adopt them
19 as proposed, or do you think they may make some other
20 changes, or is it possible for them to make changes?

21 A Are you talking about all the rules that
22 were in the NPRM?

23 Q Well, let's say the rules relating to
24 slamming in particular.

25 A All of the rules related to slamming?

1 Q That's correct.

2 A Well, you know, I would be surprised if they
3 adopted the rules exactly as they were published,
4 because that's the reason they go through the comment
5 cycle is to try to obtain more information from state
6 regulators and the industry and other interested
7 parties.

8 Q Okay. You mentioned earlier Section 258 of
9 the Telecommunications Act. Has your company taken
10 any action against any carrier for unearned revenues
11 under the Telecom Act which allows the slammed carrier
12 to obtain lost revenues from the slamming carrier?

13 A To my knowledge, we haven't at this time. I
14 think that we probably will not take that type of
15 action until the FCC issues the rules on what the
16 appropriate process is. There are questions around
17 what that total liability is, and so I don't believe
18 that we would be taking any action until those rules
19 are established.

20 Q Once those rules were established, would
21 your company be planning to take action in accordance
22 with those rules?

23 A Well, I can't say that with absolute
24 certainty. I would say that AT&T, I believe very
25 strongly that we will be taking action. Our comments

1 with the -- to the FCC on those rules indicated that
2 we thought that this was very important to the
3 industry, and we have not taken action in the past
4 because of the ambiguity that goes with only being
5 able to recover lost profit. So I'm sure that AT&T
6 will be taking action against carriers where it's
7 appropriate.

8 Q Are your intrastate rates for resellers the
9 same as the interstate rates on file with the FCC?

10 A I don't know.

11 MS. CALDWELL: We have passed out some
12 information and, Chairman Johnson, I would like this
13 to be marked for identification. It is a document.
14 In the corner it says No. 2005, and it's a customer's
15 complaint from Killearn Realtors. We'd like to mark
16 that for identification, please.

17 And, Mr. Watts, I think it's on your right,
18 and we'd just like to have you look at this for a few
19 minutes.

20 CHAIRMAN JOHNSON: Ms. Caldwell, the
21 document that you just passed out, you want it marked
22 as an exhibit?

23 MS. CALDWELL: Yes, marked for
24 identification.

25 CHAIRMAN JOHNSON: Okay. And it's more than

1 one document, though, right?

2 MS. CALDWELL: Right.

3 CHAIRMAN JOHNSON: It's more than one
4 complaint?

5 MS. CALDWELL: Right, but we'd like the
6 whole thing just marked for identification as a
7 customer complaint.

8 CHAIRMAN JOHNSON: Okay.

9 (Exhibit 7 marked for identification.)

10 Q (By Ms. Caldwell) Would you turn -- it's
11 about the eighth page back, and I'll give you a few
12 minutes to review particularly just the first
13 paragraph of this page, and then if you will go --

14 A What's on that page? I'm sorry.

15 Q It's on AT&T letterhead, and it's to Rick
16 Moses regarding Combined Companies.

17 A Okay.

18 Q And it begins "This is in response to your
19 July 1, 1996 letter."

20 A Uh-huh.

21 Q If you would review that first paragraph,
22 and then turning over to the page which starts on the
23 Killearn Brokers Realty letterhead dated June the
24 20th, if you would review that as well; and we'll give
25 you a few minutes to review it.

1 **MS. RULE:** Commissioners, I haven't seen
2 this exhibit before, and I'm not sure the purpose for
3 which Staff is offering it, but it appears to discuss
4 complaints that may involve AT&T. And if this
5 particular complaint is going to be the subject of a
6 show cause proceeding, then I would ask that this
7 exhibit be stricken from the record and that Staff
8 take up that complaint in connection with the show
9 cause proceeding.

10 **CHAIRMAN JOHNSON:** Ms. Caldwell?

11 **MS. CALDWELL:** Commissioners, this is a
12 closed complaint. The Commission has already reviewed
13 it. We're going for the purpose not to -- for any
14 kind of complaint purposes or what it is; it goes to a
15 different purpose.

16 **MS. RULE:** Commissioners, the show cause,
17 I'm told, will include a number of closed complaints.
18 Is Staff assuring me that this one will not appear on
19 any show cause?

20 **MS. CALDWELL:** This has already been opened
21 and closed. This is done with.

22 **MS. RULE:** Ms. Caldwell, a number of
23 complaints that I am told will be lodged against AT&T
24 have already been opened and closed with --

25 **COMMISSIONER GARCIA:** Madam Chairman,

1 haven't you already ruled on this, that we're going to
2 look at cases that are before us just for the
3 illustrative purposes that they have? I think you
4 ruled on this when Mr. Beck brought up this point, and
5 Ms. Rule is just making another run on this. If we
6 can move on.

7 MS. CALDWELL: Again, this was a separately
8 docketed complaint on this particular -- this was a
9 complaint that has already been docketed and resolved,
10 so it's not coming back.

11 CHAIRMAN JOHNSON: I'm going to allow the
12 question.

13 MS. RULE: In that case, I'll object on the
14 grounds of no proper foundation.

15 CHAIRMAN JOHNSON: I'm allowing the
16 question.

17 MS. CALDWELL: Okay.

18 Q (By Ms. Caldwell) If you would turn to the
19 page with the AT&T's letterhead. Could you explain
20 how consumer education, as you suggested in your
21 summary, would help the situation of AT&T's billing
22 another company's customer a true-up charge as
23 illustrated in the document that was handed to you and
24 is described in the letter to Killearn Brokers?

25 A Now, which one -- are you talking about

1 Killearn Brokers?

2 Q Well, in the letter from AT&T to Mr. Moses,
3 it states that CCI is a customer of AT&T, and Killearn
4 Brokers Realty and Roadrunner Travel resorts are
5 customers of CCI. And so you're telling the customer
6 that AT&T is not its provider, that in fact the
7 provider is CCI.

8 MS. RULE: Commissioners, I'm going to
9 object again. Ms. Caldwell is testifying as to the
10 contents of the document, but she hasn't established
11 that the witness knows anything about the document or
12 the situation that underlies it.

13 MS. CALDWELL: All we're trying to do here
14 is to point out that AT&T does have some practices
15 that may be confusing to the customer, where if AT&T
16 is billing for something which is explained in this
17 documentation, then consumer education really would
18 not help in this situation unless there was a
19 certificate number on the bill.

20 MS. RULE: And, again, she hasn't
21 established that Mr. Watts has any knowledge of this
22 situation such that he could testify to what -- the
23 contents of the letter or what they mean. And, again,
24 this is a rulemaking proceeding, not intended to prove
25 whether or not AT&T or any other carrier has some

1 practices that, for whatever reason, Staff disagrees
2 with.

3 **COMMISSIONER GARCIA:** Ms. Rule, your witness
4 is talking how we can -- that everything is fine and
5 dandy. And I think what our Staff is trying to point
6 out, that there are certain problems with the
7 procedures and how else can we get this if not asking
8 AT&T about these particular procedures that the
9 company embarks upon, or uses.

10 **MS. RULE:** Well, that's fine, and we'd be
11 happy to provide a response, but it's not clear to
12 even me that Mr. Watts knows the answer to these
13 questions; and I'd like Ms. Caldwell to establish a
14 predicate for the questions before she proceeds to ask
15 them.

16 **CHAIRMAN JOHNSON:** If he doesn't know the
17 answer to the question, he can state that. And as you
18 provided earlier, Ms. Rule, this is a rulemaking
19 proceeding, and I will allow quite a bit of latitude
20 in asking the questions.

21 So, Ms. Caldwell, if you could just be clear
22 and restate your question, and we can see if we can
23 get an answer out of this witness.

24 **Q** **(By Ms. Caldwell)** Let me restate it in
25 this way. Start from the back and flip two pages into

1 the document until you get to a bill from AT&T.

2 In your opinion, looking on this bill who
3 would you say the carrier is for Killearn Brokers?
4 Who would you say the long distance carrier is?

5 A Well, I don't have any frame of reference to
6 determine, because I'm not familiar with the bill, the
7 bill format or anything else related to this
8 complaint.

9 Q Are you familiar with AT&T bills, per se?

10 A No.

11 Q All right. Thank you.

12 COMMISSIONER GARCIA: Let me ask you a
13 question. On this bill -- and obviously you have more
14 expertise than I have, I guess -- who is the long
15 distance provider for this customer? Would you know
16 from looking at this bill?

17 WITNESS WATTS: Would I know?

18 COMMISSIONER GARCIA: If you received this
19 in the mail, would you know who the long distance
20 carrier is for this customer?

21 WITNESS WATTS: Well, if I received it as
22 the customer, there might be a whole set of
23 circumstances or understandings about this bill that I
24 don't have.

25 COMMISSIONER GARCIA: Okay.

1 **WITNESS WATTS:** Now, you know, if you -- I
2 know it's got an AT&T logo on the bill, but without
3 knowing anything about the bill format, how the bill
4 is rendered, what the customer has been told, I can't
5 make a judgment about that.

6 **COMMISSIONER GARCIA:** Can you find on this
7 bill who the long distance company is, by any chance?
8 Maybe I just don't know where to look.

9 **WITNESS WATTS:** No, I can't.

10 **Q** **(By Ms. Caldwell)** Mr. Watts, what
11 percentage of customers slammed away from AT&T were
12 slammed by AT&T's resellers?

13 **A** I don't have that information.

14 **Q** Would you know how many complaints have been
15 received by AT&T concerning slamming that were not
16 reported to this Commission?

17 **A** How many -- I'm sorry. Restate the
18 question.

19 **Q** Do you know how many complaints of slamming
20 were received by AT&T in 1997?

21 **A** I don't have any information -- I mean,
22 obviously some information has been provided by way of
23 an interrogatory; but other than that, I don't have
24 any additional information.

25 **Q** Would you agree that a company may use a

1 third-party verification in lieu of requiring the
2 customer to call from the telephone number that is
3 being changed?

4 A That's my understanding.

5 Q What is your company's policy when it
6 telemarkets potential customers when the person asked
7 for is not available? So if the telemarketer calls up
8 and says, is -- you know, having the list, "Is
9 Mr. Smith there?"

10 A I don't have the practice in front of me.
11 We have guidelines that are prevented -- I mean,
12 presented, provided to the sales representatives on
13 who in the household is authorized; and -- but I don't
14 have that in front of me currently. I could provide
15 it later.

16 Q I think we'd like to, if you could send us a
17 copy and provide it later.

18 A All right.

19 Q Are you familiar with any of your contacts
20 with your telemarketers or any of AT&T's policy as far
21 as what's required with your telemarketers?

22 A Are you talking about -- in what respect?

23 Q In soliciting new customers. Do you have
24 any requirements that you're aware of, and could you
25 summarize those requirements?

1 A There are guidelines included in those
2 contracts. I really can't summarize those for you
3 today. I believe many of the contracts were provided
4 by way of discovery, but I'm sure -- they're
5 proprietary, but I'm sure you could review those.

6 Q If a company --

7 A I was just going to say I have reviewed some
8 of them. I know that there are guidelines in there,
9 specific guidelines in there, that deal with the issue
10 of slamming, unauthorized change of customers,
11 penalties, and rights of AT&T should that become a
12 problem with the telemarketing firm.

13 Q Are you aware of your company's policy
14 should one of these telemarketing companies violate
15 their contract? What's AT&T's policy as far as
16 enforcing that contract?

17 A I think it would depend on the circumstances
18 in each case like any contractual situation.

19 MS. CALDWELL: Thank you. That's all I
20 have.

21 CHAIRMAN JOHNSON: Ms. Caldwell, you had
22 asked him to provide something to you. Do we need to
23 do a late-filed or anything like that, or just how
24 informal are we about that?

25 MS. CALDWELL: Let's do a late-filed exhibit

1 on that.

2 **COMMISSIONER GARCIA:** What was that, the
3 question of how many -- what was the question,
4 Ms. Caldwell?

5 **MS. CALDWELL:** I'm trying to remember. Your
6 policies and guidelines about telemarketers.

7 **WITNESS WATTS:** What you specifically asked
8 for, I think, was our guidelines that have to do with
9 what the representative does when the specific
10 individual responsible for the account is not
11 available.

12 **MS. CALDWELL:** That's correct.

13 **WITNESS WATTS:** In terms of another
14 responsible person at that residence.

15 **MS. CALDWELL:** Right. That's correct.

16 **COMMISSIONER GARCIA:** You seem to have a
17 good handle on how many complaints were filed, and you
18 had a bit of a discrepancy with Mr. Beck on what the
19 numbers represent. Could you give us -- unless your
20 responses address that. But you have here on the
21 interrogatories, you answered that was an increasing
22 number, and it was 6,517. That was total customer
23 complaints, right? That didn't segregate slamming? I
24 think that was the point Ms. Rule tried to make,
25 correct?

1 **MS. RULE:** Well, I think the point I was
2 trying to make is that the witness doesn't know. It
3 says what it says.

4 **WITNESS WATTS:** I don't know. I didn't
5 prepare --

6 **COMMISSIONER GARCIA:** Can we get a
7 late-filed exhibit about how many slamming related
8 complaints you've gotten?

9 **WITNESS WATTS:** Certainly.

10 **COMMISSIONER GARCIA:** Okay.

11 **CHAIRMAN JOHNSON:** What was that one again,
12 Joe?

13 **COMMISSIONER GARCIA:** They're going to give
14 us -- let's do it for 1996 and 1997 to -- I'm sorry --
15 1996 and 1997, and you're going to tell us -- you're
16 going to have a listing of slamming complaints that
17 you've received, not necessarily the cases that you've
18 handled through us, but slamming complaints in total
19 that you've received.

20 Let me ask you another question, because you
21 bring up something interesting. And you began by
22 saying that we need to apply our rules more
23 consistently, I think was of one of the words you
24 used. And I'm going to pose a question to you, and if
25 you don't feel comfortable answering it, don't.

1 What do you say we do what we have, say, a
2 smaller company -- because Ms. Rule has been so
3 careful we don't use AT&T as an example, we'll only
4 use AT&T in this example and another company, company
5 X. It's a small company that's a reseller but
6 provides long distance service, and they've slammed
7 100 customers in the last year, and we're going to
8 bring them up before us, and we fine them an X amount
9 based on per slamming complaint; and then we have 100
10 complaints from AT&T.

11 Do you think AT&T should be subject to the
12 same amount -- let's say we -- the same fine? Let's
13 say we fine company X \$40,000 for the 100 slamming
14 complaints. And let's say we had 100 complaints
15 against AT&T. Should we, even though company X is a
16 very small company -- I'm sure Ms. Rule doesn't have
17 the answers -- if -- and we had 100 complaints for
18 AT&T, should we fine AT&T \$40,000, the same? In other
19 words, everyone gets the same thing? Or should AT&T,
20 because it handles so much more traffic, get a much
21 smaller fine, because in the end it's a much smaller
22 infraction? In other words, their errors by
23 comparison are much smaller.

24 It's a question I have for myself, and we
25 look at these cases that are coming before us, and I'm

1 curious to get a response from you trying to
2 understand, because you asked us to be consistent.
3 And you're right, we could impose a draconian method
4 where anything that comes down the pike we give a
5 standard fine to.

6 In a few months, company X would probably
7 cease to exist. AT&T would continue to exist. But I
8 also wonder -- and this is to AT&T's benefit that my
9 doubt comes in. AT&T handles millions of long
10 distance customers. Company X handles a few. So I'm
11 just curious. How would you think -- do you think we
12 should distinguish them, or do you think we should
13 just apply the same criteria to everyone?

14 **WITNESS WATTS:** Well, without trying to make
15 a judgment about fines and amounts and that area,
16 because I'm relatively -- I don't have any experience
17 or a great deal of knowledge about that area here in
18 Florida, I think that the Commission should certainly
19 take into account the number of transactions and the
20 number of problems with those transactions. I mean, I
21 think that principle would apply to virtually any
22 other performance measurement that you might impose on
23 a company that you regulate.

24 So from that standpoint, yes, I think that
25 you should discern between the two. If we're handling

1 millions of contacts with customers and we're having a
2 problem with, you know, less than 1%, I think that
3 says something about the effort that's been undertaken
4 by AT&T in terms of how we train our employees and how
5 we deal with the customers.

6 On the other hand, you know, if a carrier is
7 having a problem with, you know, a fourth, or half, or
8 whatever, of the number of contacts they have, then
9 that certainly tells you something about that carrier.
10 It may be a small carrier, but if they're having that
11 kind of problem, then there are all kinds of things
12 you could take into consideration here. You might,
13 with a brand new carrier, have some kind of process
14 where you have a warning and you go back, you know,
15 and exert more pressure.

16 I feel after looking at the rules proposed
17 and the information I've been able to see at AT&T, I
18 really feel strongly that the Commission should
19 certainly take into consideration the total number of
20 transactions.

21 If you look at the FCC report card on
22 slamming, they use a number of slams per million
23 dollars in telecommunications revenue. That's the
24 general yardstick of how those carriers are
25 performing. If you look at 1996, which is the latest

1 report card, AT&T was the lowest, the best performer
2 on that ratio.

3 Like I said before, Commissioner, if it's
4 you, one is too many. If it's a horrible example, you
5 know, of something that shouldn't have been done and
6 damaged the customer or -- you know, then certainly,
7 you know, I wouldn't try to defend any action like
8 that. But in terms of the overall performance of the
9 company and how seriously you're taking this problem
10 and the steps you're taking to try to deal with the
11 problem, then I think you have to look at the total
12 number of transactions.

13 **COMMISSIONER GARCIA:** Thank you.

14 **COMMISSIONER JACOBS:** I have a couple
15 questions. Mr. Watts, in your rebuttal testimony in
16 response to I believe it's the last page -- I don't
17 see a number, but it's the last page of your
18 rebuttal -- you respond to a recommendation by Public
19 Counsel for a rule amendment. And I'm particularly
20 looking at your response, and you indicate that
21 existing rules authorize carriers to -- a slamming
22 carrier to rerate the bill charged to the customer,
23 and you characterize that as a make whole remedy. Are
24 you with me?

25 **WITNESS WATTS:** I'm sorry, Commissioner.

1 **COMMISSIONER JACOBS:** On the last page of
2 your rebuttal, and I'm looking at the beginning of
3 Line 8 labeled "AT&T Response". I'll give you a
4 minute to read that.

5 **WITNESS WATTS:** And what was the question
6 again?

7 **COMMISSIONER JACOBS:** Explain to me how that
8 would work for a consumer.

9 **WITNESS WATTS:** And this is in my rebuttal?

10 **COMMISSIONER JACOBS:** I believe so, yes.

11 **WITNESS WATTS:** I'm not sure I'm looking at
12 the right line. I'm sorry.

13 **COMMISSIONER JACOBS:** I'll give you a copy.

14 (Document handed to the witness.)

15 **WITNESS WATTS:** Okay. Are you asking how
16 the rerate works?

17 **COMMISSIONER JACOBS:** Yes.

18 **WITNESS WATTS:** What occurs is the slamming
19 carrier would determine what rate the customer would
20 have been billed by their original carrier, and they
21 would rerate -- if that rate is less than the rate
22 that they were charged by the unauthorized carrier
23 during the period of time that they were providing
24 service to the customer, then they would rerate those
25 calls and provide an adjustment to the customer so

1 that he paid the same that he would have paid had he
2 stayed with his original carrier.

3 COMMISSIONER JACOBS: Okay. So what would
4 happen is the customer would be switched back to the
5 original authorized carrier?

6 WITNESS WATTS: That's correct.

7 COMMISSIONER JACOBS: The original carrier
8 would rerate whatever calls were made during the
9 period of time they were with the unauthorized
10 carrier?

11 WITNESS WATTS: That's correct.

12 COMMISSIONER JACOBS: And that the carrier
13 then would do some transaction on that customer's
14 bill? In other words, the customer's bill would be
15 reduced by that difference?

16 WITNESS WATTS: That's correct. A credit
17 would be issued for that amount.

18 COMMISSIONER JACOBS: Okay. Now, what
19 happens between you being the carrier, the authorized
20 carrier, and the carrier that's slammed if there's a
21 dispute on that amount? Let's say they're back now
22 with you as their authorized carrier. You do the
23 adjustment, but then that original -- the carrier that
24 originally switched disputes what you come up with as
25 that credit to the customer. What happens?

1 **WITNESS WATTS:** Well, I assume that that
2 issue would be worked out between the two carriers.
3 I'm not aware of that being -- or I haven't seen a
4 complaint where that was a problem. Typically the
5 information about what the rates were and what plan
6 the customer was on should be able to be ascertained,
7 and it should be a pretty straightforward calculation
8 to determine how to rerate those calls.

9 **COMMISSIONER JACOBS:** I would think so, but
10 then I look here at a series of events that were
11 brought out in Staff's exhibit, and that causes me
12 some concern, without getting into the particulars.

13 Are you familiar with the true-up issue that
14 occurred between AT&T and CCI?

15 **WITNESS WATTS:** No, I'm not. I'm sorry.

16 **COMMISSIONER JACOBS:** If I can then, in your
17 duties as manager of regulatory affairs, you do become
18 involved in responses to customers on these type
19 issues; is that correct?

20 **WITNESS WATTS:** I'm not typically -- no, I'm
21 not involved directly with complaint handling.

22 **COMMISSIONER JACOBS:** Okay. Let's see if
23 you have a general knowledge of this -- not the
24 specifics between these two parties, but generically.
25 And if I can refer you -- again, these pages are not

1 numbered -- but on Staff's exhibit that they just
2 passed out, it's labeled as Attachment E, which is a
3 June 27th, 1996 letter.

4 **WITNESS WATTS:** All right. I've got it here
5 somewhere.

6 **COMMISSIONER JACOBS:** And if I could direct
7 you to the third paragraph. Without getting into a
8 whole bunch of detail, if you would accept my
9 characterization subject to confirmation, it appears
10 here that there were certain charges that the reseller
11 was liable to AT&T for which fell into dispute; and in
12 lieu of the reseller paying those charges directly to
13 AT&T, AT&T billed the reseller's customers.

14 Now, the parallel that I see is if we get
15 into a situation in the slamming example where you
16 credited that customer's bill and there's a dispute
17 between yourself and the reseller, would you carry out
18 the same kind of practice in that example as you did
19 here; i.e., would you then bill back to that customer
20 who actually received the service?

21 **WITNESS WATTS:** Are you referring to an
22 instance where a customer was changed from the
23 reseller to AT&T or from AT&T to the reseller?

24 **COMMISSIONER JACOBS:** Let's walk back
25 through it again. The customer was originally AT&T,

1 was slammed to a reseller. Pursuant to rule, they
2 were brought back to you as authorized carrier, and
3 they were -- and there was a credit due to them
4 because of a difference in charges. You do the credit
5 to the customer, but after that your reseller disputes
6 that credit and won't pay it to you.

7 Would you engage in the same kind of
8 practice in that example; i.e., billing the difference
9 back to the customer as you did here?

10 **WITNESS WATTS:** Well, it's my understanding
11 that our relationship with the reseller would be
12 essentially the same as with any other
13 telecommunications provider. We don't impose a
14 different standard because it's a reseller of AT&T.
15 We consider that reseller a telecommunications
16 provider, and I'm not aware of any action that we
17 would take that would be any different.

18 **COMMISSIONER JACOBS:** I understand. I'm not
19 really concerned about the reseller. My concern is
20 that it appears to me in this exchange that the
21 customer lost out, because they're finding themselves
22 billed for a charge that the reseller was actually due
23 to pay to you but they refused to pay because of a
24 dispute.

25 **WITNESS WATTS:** Well, Commissioner, I wish I

1 was personally familiar with the complaint. I am not.
2 I'm sure I could research what occurred on that
3 complaint.

4 From the standpoint of AT&T policy, you
5 know, whoever the slamming carrier was should be
6 responsible for rerating the calls if the customer was
7 paying for service during that period at a rate higher
8 than the customer would have paid if they had been
9 with the carrier that they selected.

10 COMMISSIONER JACOBS: I understand.

11 WITNESS WATTS: From a policy standpoint,
12 that should have been the outcome. I'm not familiar
13 with this specific complaint, and if there's some kind
14 of process or procedural problem there, then it's
15 something that should be dealt with; but I'm not aware
16 of it.

17 COMMISSIONER JACOBS: Okay. Then let me end
18 it on this question. Could it be concluded, then,
19 that you wouldn't anticipate charging any overdue
20 charges to customers as a result of any process of
21 making whole in a slamming transaction? Can we make
22 that general statement?

23 WITNESS WATTS: Well, we don't take a
24 position as pertains to a reseller if it happened to
25 be an AT&T reseller any different than our position

1 would be with any other LD carrier.

2 If the customer was changed without his
3 authorization and was billed at a higher rate, then he
4 should be due a rerate that would rerate his calls
5 back to the same rate that they would have been had he
6 been with his authorized carrier.

7 **COMMISSIONER DEASON:** Let me ask a question.
8 Are you familiar with the term "shortfall charges"?

9 **WITNESS WATTS:** No, sir.

10 **COMMISSIONER DEASON:** Isn't that what the
11 letter dated July 26, 1996, to Mr. Rick Moses
12 addresses; the term, "shortfall charges"?

13 **WITNESS WATTS:** I'm not familiar with the
14 term and, again, I'm not familiar with the specific
15 complaints.

16 **COMMISSIONER DEASON:** Well, you indicated
17 just in response to a question that you treat all
18 carriers even though it may be a reseller of AT&T as
19 separate and distinct companies and you treat them all
20 the same; is that correct?

21 **WITNESS WATTS:** That's correct.

22 **COMMISSIONER DEASON:** Well, then do you
23 routinely charge for the other companies that are not
24 resellers shortfall charges? You're not familiar with
25 that term, so you don't know?

1 **WITNESS WATTS:** I'm not familiar with the
2 term.

3 **CHAIRMAN JOHNSON:** Did you have a question,
4 follow-up?

5 **MS. CALDWELL:** Yes.

6 **CHAIRMAN JOHNSON:** We'll do follow-up before
7 we go to redirect.

8 **MS. CALDWELL:** Thank you.

9 **CONTINUED CROSS EXAMINATION**

10 **BY MS. CALDWELL:**

11 **Q** I'd like to ask three questions. First back
12 to your exhibit that you passed out; I think the more
13 recent FCC trends in slamming.

14 **A** Yes.

15 **Q** How many of the companies that are the major
16 wrongdoers that have the high numbers on the graph
17 resell AT&T services?

18 **A** I don't have that information.

19 **COMMISSIONER GARCIA:** Do you recognize any
20 of it?

21 **WITNESS WATTS:** Well, one of them slammed
22 me, so I recognize that one; but from an AT&T
23 relationship, I don't know.

24 **COMMISSIONER GARCIA:** Maybe we should ask
25 for that information. Could you give us a late-filed

1 exhibit on which companies -- I guess -- Ms. Caldwell,
2 what would be the proper way to phrase that question?

3 MS. CALDWELL: How many of the companies
4 that were classified as major wrongdoers, anyone on
5 this list that essentially would be -- that are
6 reselling AT&T service.

7 CHAIRMAN JOHNSON: Did you understand the
8 request, sir?

9 WITNESS WATTS: Yes. You want to know how
10 many who are listed on this chart are AT&T resellers.

11 MS. CALDWELL: That's correct. And
12 including downstream resellers. They resell your
13 service; not just your resellers, but they do resell
14 your service?

15 WITNESS WATTS: Okay.

16 MS. RULE: I'm sorry. Could I have
17 clarification on that? What you mean is like a
18 reseller once removed, a reseller who purchases from a
19 reseller?

20 MS. CALDWELL: Right; including those.

21 MS. RULE: Okay. We can provide that
22 information to the extent that we know it.

23 MS. CALDWELL: We understand.

24 Q (By Ms. Caldwell) Mr. Watts, you're here
25 as an expert here today; is that correct?

1 A That's correct.

2 Q Since you're an expert, and referring back
3 to Staff's exhibit where I think it was the second
4 page from the back and you were looking at the AT&T
5 telephone bill, it's my understanding that your
6 testimony was that you could not determine who was the
7 reseller on that bill or who the provider of service
8 was for that bill; is that correct?

9 A I can't, because I'm not familiar with all
10 the information on the billing.

11 Q Would you agree that if you couldn't tell
12 who the provider of the service was as an expert, that
13 the regular lay person would have -- there's a problem
14 if the lay person could not tell as well?

15 A Well, like I said earlier, it would depend
16 on what the other information on the bill refers to
17 and what I as a customer know about the billing
18 process at this point in time.

19 Now, as pertains to resellers, AT&T has had
20 a change in procedures in that. I don't believe that
21 the AT&T name or logo are appearing on reseller bills,
22 or our policy is they would not appear on reseller
23 bills at this point in time. So on a going-forward
24 basis, whatever confusion would be caused by that
25 should be corrected. But I don't know in looking at

1 this bill, particularly on a business customer,
2 whether or not this particular customer would have
3 known or would not have known.

4 Q Would you agree that if a customer can't
5 look at his bill and determine -- you said AT&T is
6 changing their format -- would you agree that if a
7 customer can't look at their bill and determine who
8 their provider is that it could be confusing to the
9 customer?

10 A I think a customer should be able to look at
11 their bill and tell who their provider is, certainly.

12 MS. CALDWELL: All right. Thank you.

13 That's all the questions I have.

14 COMMISSIONER GARCIA: Let me ask you, that
15 change in policy that kept AT&T from the -- when you
16 were doing billing, how was that initiated? Was
17 that -- who initiated that?

18 WITNESS WATTS: Commissioner, I don't know
19 the background.

20 CHAIRMAN JOHNSON: Ms. Rule?

21 MS. RULE: Thank you. Commissioners, before
22 we move forward, I'd like to ask you to take official
23 notice of an order. Unfortunately, I don't have the
24 order number or even the docket number in front of me.

25 The Staff composite exhibit that you

1 received appears to be a collection of correspondence
2 that was exchanged between various parties and Staff
3 with regard to a docket -- an item that was later
4 docketed by the Commission. The issue in that case
5 was branding of bills, not slamming, so this is not a
6 slamming complaint. But there is an order that I
7 recall that you issued dealing with this, and rather
8 than have me --

9 **COMMISSIONER GARCIA:** If I'm not mistaken,
10 we're the ones that ordered you not to do this
11 anymore? Am I mistaken in that?

12 **MS. RULE:** No, we weren't ordered not to do
13 that any --

14 **COMMISSIONER GARCIA:** You agreed to do it.

15 **MS. RULE:** Exactly. And, in fact, the
16 procedure had been started before the Combined
17 Companies' complaint came up. So Mr. Watts is not
18 familiar with this. He's never seen it before. But
19 you do have an order dealing with this, and it was
20 directed to Combined Companies. I don't believe it
21 was directed to AT&T, but my recollection could be
22 wrong on that.

23 In any event, I am happy to supply you with
24 the docket number and the order number which I hope
25 would clear up some of the questions here and perhaps

1 make this exhibit unnecessary.

2 **CHAIRMAN JOHNSON:** Ms. Rule, you said you do
3 have the order number?

4 **MS. RULE:** I can get it for you. I just
5 don't have it in front of me because I wasn't aware
6 Staff was going to propose this exhibit; but I'll get
7 it for you at the next break.

8 **CHAIRMAN JOHNSON:** Okay. Then after the
9 next break after we receive that information, then
10 certainly the Commission takes official recognition of
11 its own order.

12 **MS. RULE:** Thank you.

13 **CHAIRMAN JOHNSON:** Any other questions?

14 **MS. RULE:** No other questions. I'd move
15 Exhibit No. 5.

16 **CHAIRMAN JOHNSON:** Show that then admitted
17 without objection.

18 (Exhibit 5 received in evidence.)

19 **CHAIRMAN JOHNSON:** Public Counsel?

20 **MR. BECK:** I move 6.

21 **CHAIRMAN JOHNSON:** Show that moved without
22 objection.

23 (Exhibit 6 received in evidence.)

24 **MS. CALDWELL:** We move Exhibit No. 7.

25 **MS. RULE:** I would object to the admission

1 of No. 7. There's been no predicate laid because the
2 witness who was going to talk about it has said he has
3 no knowledge of it.

4 I believe Staff can get their information in
5 through the official order of the Commission, and
6 there's nothing in this document that as to this
7 witness in this proceeding is not unverified hearsay.

8 **CHAIRMAN JOHNSON:** Ms. Caldwell?

9 **MS. CALDWELL:** First of all, I don't think
10 that this particular information is part of the order
11 itself, and we do believe that the -- well, it clearly
12 shows that AT&T has billed for an uncertificated
13 entity, which is an issue in this case, and I think
14 that the witness certainly can recognize one of AT&T's
15 own bills.

16 **CHAIRMAN JOHNSON:** Okay.

17 **MS. RULE:** Commissioners, I wouldn't object
18 to the admission of that one page with the bill on it,
19 particularly since there were specific questions about
20 what you could tell and what you could not tell from
21 the page, but with the rest of the information it's an
22 exchange of letters that Mr. Watts has no knowledge
23 of. It's absolute hearsay. He can't verify the
24 information in those letters; neither can Staff.

25 It appears to me there's no foundation laid

1 for any part of that document, save that one page on
2 which the AT&T logo is, and that's the one he was able
3 to answer some questions on.

4 **CHAIRMAN JOHNSON:** Thank you. I'm going to
5 admit the Exhibit 7. We have three late-fileds, 8, 9,
6 and 10.

7 (Exhibit 7 received in evidence.)

8 (Late-Filed Exhibits 8, 9, and 10 marked for
9 identification.)

10 Thank you, sir, you're excused.

11 (Witness Watts excused.)

12 - - - - -

13 **MR. MARKS:** BellSouth will call Jerry
14 Hendrix to the stand.

15 **JERRY HENDRIX**

16 was called as a witness on behalf of BellSouth
17 Telecommunications, Inc. and, having been duly sworn,
18 testified as follows:

19 **DIRECT EXAMINATION**

20 **BY MR. MARKS:**

21 **Q** Mr. Hendrix, you have been sworn, haven't
22 you?

23 **A** Yes.

24 **Q** Would you please state your name and address
25 for the record?

1 A My name is Jerry D. Hendrix. My address is
2 675 West Peachtree Street, Atlanta, Georgia.

3 Q By whom are you employed and your position
4 with that employer, please?

5 A I am employed by BellSouth as director,
6 interconnection services pricing.

7 Q Have you previously caused to be prepared by
8 both prefiled direct and prefiled rebuttal testimony?

9 A Yes.

10 Q Let's address your direct testimony, and I
11 think that's consisting of 24 pages; is that correct?

12 A That is correct.

13 Q Do you have any additions or corrections or
14 changes that you'd like to make to that testimony, the
15 direct testimony?

16 A No, I do not.

17 Q If you were asked the same questions that
18 are posed in that prefiled direct testimony today,
19 would your answers be the same?

20 A Yes, they would be.

21 MR. MARKS: Madam Chairman, could we have
22 that inserted into the record at this point?

23 CHAIRMAN JOHNSON: It will be inserted into
24 the record as though read.

25 Q (By Mr. Marks) Were there any exhibits

1 attached to that?

2 A There were none.

3 Q Did you also cause to be filed or prefiled
4 some rebuttal testimony consisting, I believe, of 34
5 pages?

6 A Yes, I did.

7 Q Now, do you have any additions or
8 corrections or changes to that testimony?

9 A I have a change as a result of an issue not
10 being addressed in this docket, and that is to strike
11 wording beginning on Page 25, Line 24 through Page 29,
12 Line 25.

13 Q Is that dealing with the billing block
14 option issue that was discussed in the previous
15 hearing?

16 A Yes, it is.

17 Q Were there any exhibits attached to that
18 testimony?

19 A No, there were not.

20 Q Have you prepared a summary of both the
21 direct and rebuttal testimony?

22 A Yes, I have a very brief summary.

23 Q Would you give it, please?

24 A Yes. Thank you.

25 MR. MARKS: I'm sorry. Did we insert the

1 rebuttal testimony? Let's insert the rebuttal
2 testimony at this point, Madam Chair.

3 **CHAIRMAN JOHNSON:** I'll insert it as though
4 read.

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BELLSOUTH TELECOMMUNICATIONS, INC.
TESTIMONY OF JERRY HENDRIX
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 970882-TI
NOVEMBER 24, 1997

Q. Please state your name and company name and address.

A. My name is Jerry Hendrix. I am employed by BellSouth Telecommunications, Inc. as Director - Interconnection Services Pricing. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. Please summarize your background and experience.

A. I graduated from Morehouse College in Atlanta, Georgia in 1975 with a Bachelor of Arts Degree. I began employment with Southern Bell in 1979 and have held various positions in the Network Distribution Department before joining the BellSouth Headquarters Regulatory organization in 1985. On January 1, 1996 my responsibilities moved to Interconnection Services Pricing in the Interconnection Customer Business Unit .

Q. Have you testified previously?

1 A. Yes. I have testified in proceedings before the Alabama, Florida, Georgia,
2 Kentucky, Louisiana, Mississippi, South Carolina, and Tennessee Public
3 Service Commissions and the North Carolina Utilities Commission.

4

5 Q. What is the purpose of your testimony?

6

7 A. The purpose of my testimony is to provide BellSouth's position regarding
8 unauthorized provider changes ("slamming") and slamming rules in general
9 and to provide specific comments regarding the Florida Commission's Notice
10 of Proposed Rule Development regarding the proposed amendment of the
11 slamming rules.

12

13 Q. Would you please explain BellSouth's overall view regarding rules on
14 slamming?

15

16 A. Yes. BellSouth agrees with the Commission that slamming is a serious
17 problem that must be addressed. As competition continues to evolve in the
18 remaining markets, local toll and local exchange service, slamming will
19 become even more pervasive without proper rules and strict enforcement.

20

21 BellSouth supports the need for uniform rules. Uniform rules for authorization
22 and verification are more cost effective and more easily administered.

23 Uniform rules are also easier for customers to understand.

24

25

1 Questionable marketing tactics by some carriers have brought slamming to the
2 forefront of concern for customers and the industry. Rules to eliminate
3 slamming should not, however, create additional and costly burdens on those
4 carriers, including local exchange companies, who choose to operate in a fair
5 and reasonable manner. BellSouth believes that the most effective method of
6 preventing slamming is the application of significant penalties for those
7 carriers who willfully and repeatedly use slamming tactics. Heavy financial
8 penalties, suspension and withdrawal of certification of willful offenders will
9 reduce, if not eliminate, slamming while not imposing undue burden on those
10 carriers who operate within the rules.

11
12 Chapter 364.285 of the Florida Statutes gives the Florida Public Service
13 Commission the authority "to impose upon any entity subject to its jurisdiction
14 under this chapter which is found to have refused to comply with or to have
15 willfully violated any lawful rule or order of the commission or any provision
16 of this chapter a penalty for each offense of not more than \$25,000, which
17 penalty shall be fixed, imposed, and collected by the commission; or the
18 commission may, for any such violation, amend, suspend, or revoke any
19 certificate issued by it." Based on this chapter in the Florida Statutes, the
20 Florida Public Service Commission has the authority and ability to stop the
21 practice of slamming by enforcing the rules as they currently exist. Strict
22 enforcement of existing rules would preclude the need for new rules which will
23 add cost to the companies that operate within the existing guidelines. The cost
24 for imposing new rules will inevitably be paid by the end user in the form of
25 higher prices. Simply stated, heavy financial penalties will remove the

1 financial incentives to build market share by willfully slamming customers.
2 When the financial incentive is removed from slamming, there should be a
3 drastic decrease in occurrence.

4

5 Q. On July 15, 1997 the Federal Communications Commission ("FCC") released
6 a Notice of Proposed Rulemaking ("NPRM") asking for comments on further
7 ways to eliminate slamming. The FCC's NPRM appears to address all
8 telecommunications carriers including local exchange telecommunications
9 carriers. What is BellSouth's position regarding these proposed rules?

10

11 A. Although BellSouth opposes certain provisions contained in the FCC's rules,
12 BellSouth supports the need for consistency across all jurisdictions. Rules that
13 differ across jurisdictions will unnecessarily complicate administration,
14 increase costs, and cause customer confusion.

15

16 Q. The Florida Public Service Commission's Notice of Proposed Rule
17 Development issued May 21, 1997 and reissued October 15, 1997, initiated the
18 development of amendments to Chapters 25-4 and 25-24, Florida
19 Administrative Code, to amend provisions relating to a customers preference
20 for a local, local toll, and toll provider. Does BellSouth have specific
21 comments relative to these rules?

22

23 A. Yes. Regarding Rule 25-4.110, Customer Billing for Local Exchange
24 Telecommunications Companies, the Commission recognizes the need for

25

1 customers to easily distinguish billing amounts among multiple providers. The
2 Staff proposed the following language:

3

4 "(10) After January 1, 1998, all bills produced shall clearly and conspicuously
5 display the following information for each service billed in regard to each
6 company claiming to be the customer's presubscribed provider for local, local
7 toll or toll service:

- 8 (a) The name of the certificated company and its certificate
9 number;
- 10 (b) Type of service provided, i.e., local, local toll, or toll; and
- 11 (c) A toll-free customer service number.

12

13 BellSouth's bill already displays the name of the service provider and
14 clearinghouse, where applicable, for all charges. Included in this information
15 is a toll-free number that a customer can call with questions concerning his bill.
16 An IXC or a clearinghouse can purchase Bill Processing Service from
17 BellSouth with or without Inquiry. Inquiry is a service whereby BellSouth
18 receives calls from the end user and resolves billing questions on behalf of the
19 IXC or clearinghouse. When an IXC or clearinghouse purchases Bill
20 Processing Service without Inquiry, BellSouth requires that the IXC provide a
21 reasonable level of Inquiry for their customers. If the Inquiry provided by the
22 IXC begins to generate what BellSouth considers an unreasonable number of
23 end user complaints, (because the end user is unable to contact the IXC or
24 clearinghouse, the dispute was not resolved, etc.), BellSouth will recourse the
25 charges to the IXC or clearinghouse. BellSouth will also "invoke Inquiry"

1 (i.e., the IXC will be required to purchase Inquiry) on an interim basis until the
2 IXC is able to provide a satisfactory level of Inquiry. All appropriate Billing
3 and Collection charges for the preceding services will apply during the interim
4 period.

5
6 It is unclear how adding the certificate number and the type of service on the
7 bill would help customers interpret their bills or prevent slamming problems.
8 The certificate number and the service designations (i.e. local, local toll, toll)
9 mean nothing to most, if not all, typical end users; indeed, printing them on the
10 bill may actually cause confusion. Adding to the potential confusion, Carriers
11 may choose to conduct business under various names for marketing purposes.
12 The name is what is recognizable by the customer, not the certificate number
13 or the service designation.

14
15 Since notification of a change in presubscribed carriers via the bill is after-the-
16 fact for slamming, the most efficient use of the bill is to call the customer's
17 attention to the change on the first bill after the change is made. Though
18 BellSouth provides customers with notification of preferred provider changes
19 today, the Company is currently reviewing the entire bill format in an effort to
20 make this notification even more prominent.

21
22 Q. What action has BellSouth taken to insure that only certificated carriers are
23 billing customers?

24
25

1 A. BellSouth implemented a database several years ago called the IXC Services
2 Authentication Table ("ISAT") to prevent billing by uncertified carriers. The
3 ISAT is used by BellSouth to block intrastate billing until the carrier provides a
4 copy of the certificate issued by the Commission. Although the certificate
5 number is not listed on the bill, BellSouth does insure that intrastate charges
6 will not be billed for IXCs which are not certificated.

7

8 Q. Would the recommended changes cause increased costs?

9

10 A. Yes. The recommended changes would not only be difficult to implement but
11 would also cause increased costs. Adding the certificate number and the type
12 of service provided would require significant bill formatting changes. Costs
13 would be incurred to develop and administer comprehensive databases to
14 maintain the certificate numbers, the firm's certified name, and the "doing
15 business as" name, or d.b.a. Mechanisms for transporting such information to
16 the bill would need to be developed. The actual type of service (local, local
17 toll or toll) for each provider would have to be loaded within the new data base
18 and transported to the bill. Finally, because there is no interface between the
19 PIC data base and the carrier billing process that would enable this to be done
20 in order to support such a change, one would have to be developed.

21

22 Q. Has BellSouth developed any specific estimates of cost for the implementation
23 of these bill changes?

24

25

1 A. Yes. BellSouth has conducted a high level cost study. This cost study shows
2 that the costs incurred would be:

3

4 The non-recurring billing costs to include this information are estimated to be
5 between \$80,000 - \$100,000.

6

7 The annual recurring costs to include this information would depend upon how
8 the required information had to be displayed in the bill.

9

10 If the information had to be displayed in the particular section of the bill which
11 included the itemization of that carrier's charges, the annual recurring costs are
12 estimated to be between \$4 - \$4.5 million.

13

14 If a separate section can be created in the bill to display all of the relevant
15 account information, the annual recurring costs are estimated to be between \$2
16 - \$2.5 million.

17

18 BellSouth, therefore, requests that with the exception of inclusion of a toll-free
19 customer service number, the Commission not adopt Section (10) and its
20 requirements for customer billing.

21

22 Q. Does BellSouth have a lower cost alternative to propose that will accomplish
23 the goal of the Staff?

24

25

1 A. BellSouth suggests placing the verification telephone numbers for PIC and
2 Local toll PIC on the bills each month so that end users can call and verify
3 their selections at any time during the billing cycle. This method of
4 verification would cost much less than the proposed rules and would be a user
5 friendly form of verification. BellSouth believes that this information would
6 be more informative and useful to the customer than the certificated name and
7 number.

8

9 Q. Does BellSouth have concerns with Section 25-4.118 Local, Local Toll, or Toll
10 Provider Selection? If so, please outline BellSouth's concerns.

11

12 A. Yes. In order to address our issues in the most concise manner, I will break out
13 our concerns by specific sections and subsections.

14

15 With regard to sections 1 and 2 of this rule, the Commission's proposed rules
16 indicate that identifying information be obtained from the customer to
17 substantiate a valid authorization. BellSouth supports the Commission's intent
18 to eliminate slamming, however, it should be made clear that BellSouth does
19 not support the application of verification procedures to customer initiated
20 calls.

21

22 Verification requirements for customer initiated calls will unnecessarily subject
23 carriers to substantial costs and increase customer contact time. Such
24 requirements will subject customers, who have made a conscious and
25 affirmative decision to make a change in their telecommunications service to

1 unwarranted frustration, inconvenience and delay in selecting their provider of
2 choice. It is BellSouth's belief that customers want such changes made simply
3 and expeditiously. Additionally, BellSouth believes that the majority of
4 slamming occurs not from customer initiated calls, but from other sources.
5 This belief appears to be substantiated by customers who testified in the public
6 hearings. Only a very small fraction of slamming complaints originate from
7 inbound calls. Given this low incidence of inbound problems, the expense of
8 requiring inbound verification would simply not be justified in light of the
9 minimal benefit obtained. Therefore, BellSouth believes that customer
10 initiated calls should be exempt from verification requirements.

11

12 Q. You have stated that BellSouth is opposed to the verification of inbound calls,
13 however, should the Commission adopt such rules despite BellSouth's
14 position, does BellSouth believe that the proposed rules are operationally
15 feasible ?

16

17 A. Yes. The Commission's rules appear to be operationally feasible. However,
18 options such as LOAs and Informational Packages will require costly,
19 cumbersome and operationally inefficient mechanisms. The Company will be
20 burdened with developing and managing predominately manual processes.
21 Such paper oriented verification procedures leave little opportunity for
22 mechanized efficiencies to be developed. Additionally, this type of
23 verification is not immediate and would impose undue burdens on the
24 customer to "be on the look out" for their authorization documentation.

25

1 Q. Does BellSouth have any additional comments regarding the proposed rules?

2

3 A. Yes. First, BellSouth agrees that the proposed rules should apply to ALECs
4 who will have the ability to effect changes via direct access into BellSouth's
5 provisioning Operations Systems. BellSouth also believes that a customer's
6 call to an automated 800 number is a legitimate means of verification and
7 should remain as one of the verification options.

8

9 Q. Does BellSouth have proposed wording for the Commission? If so, please
10 indicate any revisions to the Commission's proposed text.

11

12 A. We offer the following wording for consideration:

13

14 "(1) The provider of a customer shall not be changed without the customer's
15 authorization. Provider change requests made by end users during customer
16 initiated calls are exempt from verification requirements as stated herein. A
17 LEC shall accept a provider change request by telephone call or letter directly
18 from its customers; or

19

20 (2) A LEC shall accept a change request from a certificated LP or IXC acting
21 on behalf of the customer. A certificated LP or IXC shall submit a change
22 request, other than a customer initiated change, only if it has first certified to
23 the LEC that at least one of the following actions has occurred:

24

25

1 (a) the company has a letter of agency (LOA), as described in (3), from
2 the customer requesting the change;

3

4 ~~(b) the company has received a customer initiated call, and has obtained~~
5 ~~the following:~~

6

7 ~~1. The customer's consent to record the requested change;~~

8 ~~2. An audio recording of the information set forth in (3) a through e; and~~

9 ~~3. A recording of the originating telephone number on which the provider~~
10 ~~is to be changed via automatic number identification.~~

11

12 (b) the customer initiates a call to an automated toll-free number, and through a
13 sequence of prompts, confirms the customer's requested change;

14

15

16 Q. Subsection 2(d) of this rule outlines certain terms and conditions for verifying
17 a customer's change request by responding to an information package mailed
18 by the provider. Does BellSouth have specific concerns with this provision? If
19 so, please explain.

20

21 A. Yes. In subsections 2(d)(4), (5) and (6) the proposed language only allows a
22 change if the customer affirmatively confirms a change request. BellSouth
23 believes that the postcard included in the welcome package should be used to
24 deny or cancel the request. This change would create an effective and efficient

25

1 change verification mechanism which minimizes administrative burdens for
2 customers and providers.

3

4 Q. You state this would minimize administrative burdens for customers and
5 providers, would you please explain ?

6

7 A. Yes. Should the Commission require an affirmative response from the
8 customer, this would mean that BellSouth would have to "hold" a customer's
9 request until the document was returned. Holding the request creates extreme
10 complications for the Company and the customer. In essence, unless the
11 customer returned their authorization documents, the order would never be
12 processed. As a result, the customer would not receive the perceived value for
13 making their requested change. Further, customers who returned their
14 authorization documents would forego potential savings and benefits of their
15 change requests during the mail transit window. Clearly, BellSouth should not
16 be required to hold the processing of orders for customers while waiting for the
17 postal service to deliver the authorization document.

18

19 Q. Does BellSouth object to providing customers with the address and telephone
20 number of the Commission's Division of Consumer Affairs ?

21

22 A. Although BellSouth does not object to providing customers with the address
23 and telephone number of the Commission's Division of Consumer Affairs, it
24 should be noted that such requirements mandating the appearance of such
25 information in packages confirming a customer's requested change in their

1 telecommunications provider could be misunderstood. End users may think
2 that a call is required or suggested even if the change was appropriate. Such
3 information is readily available to customers through other mediums such as
4 the customer guide pages and the business office.

5

6 Q. Please provide any suggested language for the Commission to consider and
7 indicate all changes to the original text.

8

9 A. We offer the following:

10

11 "4. A postcard which the customer can use to ~~confirm~~, deny or cancel a
12 change request:

13

14 5. A clear statement that the customer's local, local toll, or toll provider
15 will be changed to the soliciting company ~~only if~~ unless the customer signs and
16 returns the postcard denying or canceling ~~confirming~~ the change within 14
17 days:

18

19 6. A notice providing that the customer may contact by writing the
20 Commission's Division of Consumer Affairs, 2540 Shumard Oak Boulevard,
21 Tallahassee, Florida 32399 - 0850 or calling, toll free (TDD & Voice) 1-800-
22 342-3352 for consumer complaints.

23

24 ~~The soliciting company shall submit the change request to the LP only~~
25 ~~if it has first received the postcard that must be signed by the customer.~~

1 Soliciting companies must wait 14 days after the form is mailed to customers
2 before submitting their PIC change orders to LPs. If customers have canceled
3 their orders during the waiting period, soliciting companies, of course, cannot
4 submit the customers' orders to the LPs."

5

6 Q. Section 3 outlines the requirements of the Letter of Agency. Are there any
7 proposed changes to that Section? If so, please indicate any changes from the
8 original text.

9

10 A. Yes. In order to eliminate potential customer confusion regarding their
11 selection of carriers, BellSouth suggests that the following text replace the
12 language proposed in Subsection (3)(d):

13

14 "Statement that the customer's change request will apply only to the number
15 on their request and there must only be one presubscribed local, one
16 presubscribed local toll, and one presubscribed toll provider for each number;
17 and a statement clearly indicating which of the customer's services are being
18 changed by the request."

19

20 Q. Section 6 requires that LOAs and audio recording shall be maintained for a
21 period of one year. Does BellSouth have concerns with this requirement?

22

23 A. Again, BellSouth is opposed to verifications requirements for inbound calls.
24 However, should the Commission adopt the proposed rules, BellSouth is
25 concerned with the operational issues associated with administering, archiving

1 and tracking authorization procedures that are paper oriented. The physical
2 space and limited opportunities for mechanization make LOAs an unattractive
3 option from an operational standpoint. With regards to archiving and
4 administering audio recordings, our discussions with vendors of such
5 equipment appear to suggest this process would be operationally efficient.
6 However, BellSouth does not believe that the expense of such systems is
7 warranted. As stated earlier, BellSouth believes that slamming occurs from
8 other sources, not as a result from customer initiated calls.

9

10 Q. Has BellSouth determined the costs associated with the Staff's proposed
11 verification requirements?

12

13 A. Yes. BellSouth has conducted a preliminary assessment of the costs associated
14 with implementing each option. Following is an outline of the estimated costs
15 for BellSouth to administer each verification option proposed in the Staff's
16 Rules:

17

18 A) Letters of Authorization (LOA)

19 The Company believes that to create an efficient method of compliance, this
20 option would have to be mechanized and embodied in the Company's day to
21 day operations. Operational implications include but are not limited to the
22 following:

23

24

- systems modifications

25

supplier programming

- 1 new letter English and Spanish version
2 systems testing
3 Spanish translation
4 quality control and assurance
5 BST programming
6
7 - training of customer contact personnel
8 develop training material for all Florida contact personnel
9
10 - a new remittance process for the LOAs to be returned to the Company
11 - tracking, reporting and verification mechanism/processes
12 - establish new work group to administer LOA remittance
13 - purchase necessary equipment to support such a work group
14 - create a follow-up process for "No Response" situations
15 - develop dispute resolution process/documentation
16 - develop appeal process/documentation
17 - develop final resolution process/documentation
18 - printing and postage
19

20 The Company estimates that implementing the LOA proposal will cost
21 approximately \$790,000 for the first year with an annual cost of
22 approximately \$660,000.
23

24 B) Audio Recording Equipment
25

1 This option includes the use of audio recording equipment. The following
2 costs estimates are based on preliminary discussions with vendors who develop
3 the type of recording equipment needed to comply with the Commission's
4 proposed rules. Estimates are based on the current vendor cost for the
5 equipment needed. The vendor prices and equipment needs of BellSouth are
6 subject to change before this proceeding concludes. Additionally, these
7 estimates are based on the use of Spectrum switches. BellSouth currently uses
8 Galaxy switches. However, BellSouth plans to replace its current Galaxy
9 switches with Spectrum switches in June of 1998. Additionally, the vendor
10 has a minimum order and installation interval of 120 days. The projected costs
11 herein do not include a redundant or back-up system to capture or retain data
12 given a system failure. Implementing Audio Recording would include but not
13 be limited to the following:

14

15 - purchase and installation of recording equipment

16 includes audio interface units, cabling, and switch interface cards.

17 includes hardware and cabinets.

18 - ongoing maintenance of recording equipment

19 - develop retrieval mechanisms and processes

20 - systems modifications

21 - training of customer contact personnel

22 - dispute resolution process

23 - appeal process

24 - final resolution process

25 - increase in work force

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BellSouth estimates the cost of implementing Audio Recording is approximately \$15 million for the first year. Annual recurring costs for audio recording could be as much as \$6.3 million.

C) Third Party Verification

This proposed rule change requires the use of an outside Third Party. The Staff suggests that inbound callers could be contacted by a third party to verify the requested provider change. BellSouth believes that implementing Third Party Verification would include but not be limited to the following:

- securing and contracting with an outside vendor to perform the required functions
- training vendor representatives
- ongoing contact negotiations
- monitoring vendor service quality
- systems modifications to accommodate bi-directional transfer
- training of customer contact personnel
- dispute resolution process
- appeal process
- final resolution process

The cost of implementing Third Party Verification is approximately \$.8 million for the first year. Annual recurring costs for Third Party Verification are estimated to be approximately \$740,000.

1 **D) Information Package**

2 This proposal requires verification via an informational package mailed to the
3 customer. BellSouth believes that implementing this proposal includes, but is
4 not limited to the following:

- 5
- 6 - systems modifications to accommodate enclosure of new document
 - 7 - negotiating systems modifications
 - 8 - training of customer contact personnel
 - 9 - a new remittance process for the verification documents to be returned to the
 - 10 Company
 - 11 - tracking, reporting and verification mechanism/processes
 - 12 - follow-up process for "No Response" situations
 - 13 - dispute resolution process
 - 14 - appeal process
 - 15 - final resolution process
 - 16 - printing and postage

17

18 BellSouth estimates the cost of implementing this proposal is approximately
19 \$730,000 for the first year. Annual recurring costs are estimated at to be
20 approximately \$450,000.

21

22 **Q.** Has BellSouth determined the impact of the disclosure requirements proposed
23 in the Staff's rules?

24

25 **A.** Yes. Following is an outline of the impact of the disclosure requirements:

1

2 **LOA:** Disclosure requirements will be incorporated in BellSouth's day to day
3 operations. The Company's Service Representatives will be trained to educate
4 the customer on the importance of the Letter of Agency during the contact.
5 Customers will be encouraged to return the documents so that BellSouth can
6 meet its regulatory obligations.

7

8 **Audio Recording:** BellSouth believes that customers should know that their
9 calls are being recorded for regulatory purposes. The Company believes that
10 the disclosure requirement for audio recordings, could be fulfilled before the
11 customer reaches the Service Representative. The disclosure would be
12 included in the educational section of the Company's automated voice
13 response system. Modifications to the Company's system would be needed.
14 Service Representatives would also be trained to answer questions from
15 customers regarding the disclosure.

16

17 **Third Party Verification:** BellSouth believes that disclosure for third party
18 verification should occur at the close of the contact with the customer. Service
19 representatives will disclose to the customer that, to comply with regulatory
20 requirements, they are being transferred to an independent third party to verify
21 the changes made by the Company.

22

23 **Informational Package:** See LOA

24

25

1 Q. Section 8 outlines the requirements for charges for unauthorized changes.
2 Does BellSouth believe that all charges for the first 90 days billed on behalf of
3 the unauthorized provider should be credited to the customer by the company
4 responsible for the error?

5
6 A. No. Although BellSouth does believe that the company responsible for the
7 error should not benefit in any way from the unauthorized change, BellSouth
8 also believes that the customer should not benefit either. The customer is
9 responsible for calls that he has placed and should also be responsible for
10 payment of charges incurred. These charges should, however, be at the
11 authorized provider's rates and paid to the authorized provider.

12
13 Section 8 further suggests that, once verified, changes should be made within
14 24 hours excepting Saturday, Sunday and holidays. BellSouth agrees that 24
15 hours should be standard for changing accounts with a single line. However,
16 large multi-line business accounts sometime require manual work processes
17 and therefore may not be completed in 24 hours. The processing time should
18 be negotiated and understood between the service provider and the end user.
19 In light of this, we propose the following:

20
21 ~~(8) Charges for unauthorized provider changes and all charges billed~~
22 ~~on behalf of the unauthorized provider for the first 90 days shall be credited to~~
23 ~~the customer by the company responsible for the error within 45 days of~~
24 ~~notification. In cases of unauthorized provider changes, the customer's~~
25 ~~liability is limited to the charges that would have occurred had the~~

1 unauthorized change not taken place. The difference of charges between the
2 offending provider and the authorized provider, if any, should be settled among
3 the service providers involved in the dispute. Upon notice from the customer
4 of an unauthorized provider change, the LEC shall change the customer back,
5 or to another company of the customer's choice. The change must be made
6 within 24 hours excepting Saturday, Sunday, and holidays, in which case the
7 change shall be made by the end of the next business day. Where such changes
8 are impractical, or require extensive manual intervention by the provider, such
9 as large customers with multiple lines, the change should be negotiated and
10 understood between the service provider and the end user.

11

12

13 Q. Does BellSouth have any other specific concerns regarding the language
14 contained in the Commission's rules?

15

16 A. No.

17

18 Q. Would you please summarize your testimony?

19

20 A. BellSouth is opposed to slamming and agrees that every reasonable effort
21 should be made to combat the problem. However, BellSouth believes that the
22 primary course of action is to severely penalize willful and repeated offenders
23 and to remove every economic incentive to slam a customer. With stiff
24 penalties and the elimination of the revenue stream, willful slamming should
25 be drastically reduced.

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In order to eliminate confusion and costly implementation, BellSouth also believes that there should be one set of rules across all jurisdictions. End users will then be able to understand the process and combat slamming problems.

If the Commission does proceed with the proposed rules, we suggest the elimination of inbound verification; continuation of an automated 800 number as a verification option; continuation of the use of a postcard to cancel or deny service; a clear indication in the communication as to what service is being changed; and the requirements for audio recordings only for third party verification. In cases where there is an unauthorized change, the carrier that made the change in error should not receive any revenue associated with calls made by the slammed customer; however, the customer should be required to pay the authorized carrier for the calls that were made at the rate that would have applied had the unauthorized change never happened.

Q. Does this conclude your testimony?

A. Yes.

1 BELLSOUTH TELECOMMUNICATIONS, INC.
2 REBUTTAL TESTIMONY OF JERRY HENDRIX
3 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
4 DOCKET NO. 970882-TI
5 JANUARY 15, 1998

6
7
8 Q. Please state your name and company name and address.

9
10 A. My name is Jerry Hendrix. I am employed by BellSouth
11 Telecommunications, Inc. as Director - Interconnection
12 Services Pricing. My business address is 675 West
13 Peachtree Street, Atlanta, Georgia 30375.

14
15 Q. Please summarize your background and experience.

16
17 A. I graduated from Morehouse College in Atlanta, Georgia
18 in 1975 with a Bachelor of Arts Degree. I began
19 employment with Southern Bell in 1979 and have held
20 various positions in the Network Distribution
21 Department before joining the BellSouth Headquarters
22 Regulatory organization in 1985. On January 1, 1996
23 my responsibilities moved to Interconnection Services
24 Pricing in the Interconnection Customer Business Unit.

25

1 Q. Have you testified previously?

2

3 A. Yes. I have testified in proceedings before the
4 Alabama, Florida, Georgia, Kentucky, Louisiana,
5 Mississippi, South Carolina, and Tennessee Public
6 Service Commissions and the North Carolina Utilities
7 Commission.

8

9 Q. What is the purpose of your rebuttal testimony?

10

11 A. The purpose of my rebuttal testimony is to provide
12 BellSouth's position regarding the December 24, 1997
13 version of the FPSC proposed Slamming Rules and
14 address issues raised in the direct testimonies of
15 witnesses representing the PSC Staff, Offices of the
16 Attorney General and Public Counsel, AT&T, MCI and
17 Sprint.

18

19 Q. AT&T witness Watts' testimony (page 4, lines 1-4)
20 defines slamming as the "knowing, unauthorized
21 transfer of a customer's primary long distance
22 carrier". Would BellSouth agree with that definition?

23

24 A. BellSouth agrees with the spirit of Mr. Watts'
25 definition that slamming involves an affirmative,

1 conscious and willful action on the part of a
2 provider. BellSouth would also expand Mr. Watts'
3 definition to include a customer's local, local toll
4 and toll service provider. It is important that the
5 Commission recognize that a distinction should be made
6 between an affirmative, willful action and an
7 incidental or inadvertent action such as a household
8 dispute, buyer's remorse or unintentional error when
9 considering the application of fines and penalties as
10 a result of slamming.

11

12 Q. You are excluding unintentional mistakes from being
13 classified as slamming. Isn't the end result to the
14 customer the same as a slam, i.e., his provider has
15 been changed without his authorization?

16

17 A. Yes, the end result is an unauthorized change of a
18 customer's provider; however, in this case, the
19 customer has not granted authorization via deceptive
20 marketing practices. Further, once the error is
21 discovered, either by the customer or the company,
22 expedient action is taken to rectify the error and to
23 satisfy the customer. This is a very different
24 scenario from the experiences that were shared during
25 the recent workshops.

1

2 Q. MCI witness King's testimony (page 4, line 13 through
3 page 5, line 6) discusses the handling of PIC disputes
4 under the FCC authorized 'so-called "no-fault" PIC
5 dispute resolution' process. Ms. King claims that
6 instances of buyer's remorse or household disagreement
7 could be classified as slams. Is this possible?

8

9 A. Yes. Most of the largest carriers subscribe to the
10 Expedited PIC Switchback Service (EPSS), the "no-
11 fault" PIC dispute resolution process to which Ms.
12 King refers. This service is indeed designed for
13 swift handling of PIC disputes for local toll and/or
14 toll service. With this service no investigation is
15 conducted; however, if the customer specifically
16 requests an investigation, then the PIC dispute is no
17 longer treated within the rules of the EPSS service.
18 The dispute would then be classified as an
19 unauthorized PIC, an investigation would be conducted
20 with the appropriate carrier and the customer. With
21 the proposed rules, a PIC dispute from a customer
22 against any carrier that subscribes to EPSS for local
23 toll and/or toll service would be documented or
24 recorded as a slam. As previously stated, this could

1 include instances of buyer's remorse or household
2 disagreements or unintentional errors.

3

4 Q. What does BellSouth believe to be the motivation for
5 slamming a customer?

6

7 A. BellSouth believes that there is no motivation for the
8 instances of accidental human error or malfunctions in
9 data transmissions. It would be our hope that as we
10 work through the various checks and balances in the
11 process that there would be opportunity to catch these
12 types of errors before they affect the changing of a
13 customer's preferred carrier.

14

15 As to those instances of willful slamming, BellSouth
16 believes that when the financial incentive is removed
17 from slamming, there should be a drastic decrease in
18 occurrence. This, coupled with heavy financial
19 penalties levied by the Commission on offending
20 carriers would clearly negate any financial
21 incentives.

22

23 Q. Should the Commission adopt rules that eliminate the
24 opportunity for undue financial gain by any party
25 involved in the dispute?

1

2 A. Yes. The Commission should be diligent to introduce
3 rules that prevent any opportunity for financial gain
4 or fraud, either on the part of a provider or on the
5 part of a customer. This is warranted in that just as
6 there are unethical companies that would run scams on
7 customers that would include slamming and/or cramming,
8 there are like minded customers that would take
9 advantage of an opportunity for undue financial gain
10 if the rules allowed. As carriers should be held
11 accountable for willful, unlawful acts of slamming,
12 customers should be financially responsible for calls
13 that they place.

14

15

16 Q. To eliminate the opportunity for financial gain, what
17 changes would BellSouth suggest to proposed rule 25-
18 4.118(8)?

19

20 A. BellSouth's proposed changes will eliminate the
21 opportunity for undue financial gain by an
22 unauthorized provider while maintaining the customer's
23 financial responsibility for services received.
24 Further, BellSouth's proposed language will eliminate

1 the financial loss currently experienced by the
2 authorized provider.

3
4 BellSouth proposes the following changes to rule 25-
5 4.118(8):

6 ~~(8)(5)~~ Charges for unauthorized provider PIG changes
7 and all charges billed on behalf of the unauthorized
8 provider higher usage rates, if any, over the rates
9 of the preferred company shall be credited to the
10 authorized provider customer by the company IXG
11 responsible for the error within 45 days of
12 notification. Charges over the rates of the
13 customer's preferred company paid by the customer will
14 be credited to the customer by the authorized provider
15 within 45 days of notification. Upon notice from the
16 customer of an unauthorized provider PIG change, the
17 LEC shall change the customer back ~~to the prior~~ IXG or
18 to another company of the customer's choice. The
19 change must be made within 24 hours excepting
20 Saturday, Sunday, and holidays, in which case the
21 change shall be made by the end of the next business
22 day. ~~In the case where the customer disputes the~~
23 ~~ballet or letter, the IXG appearing on the~~
24 ~~ballet/letter will be responsible for any charges~~
25 ~~incurred to change the PIG of the customer.~~ The only

1 exception to this 24 hour rule would be large multi-
2 line business accounts that cannot be physically
3 changed back in 24 hours. In such cases, an expedited
4 schedule will be coordinated with the customer to
5 accomplish the switch back as quickly as possible.
6

7 Q. In Direct testimony, Public Counsel's witness Poucher
8 suggests that the Commission adopt a proposal to
9 prohibit local service providers from disconnecting
10 local service of customers for nonpayment of toll
11 charges. Does BellSouth oppose such a policy?

12

13 A. Yes. BellSouth opposes a policy that will prohibit
14 local service providers from disconnecting local
15 service when consumers, other than Lifeline
16 subscribers, fail to pay their toll charges. Such a
17 policy would negatively impact the Company by
18 increasing net bad debt and reducing the value of
19 BellSouth's Billing and Collection Services.

20

21 The net bad debt of interexchange carriers for whom
22 BellSouth performs billing services would increase
23 significantly. Actual estimates given by LEC and IXC
24 representatives have ranged between two and six times
25 the current debt percentage. Since the IXCs currently

1 purchasing Billing and Collection Services do so with
2 the expectations of uncollectibles no higher than the
3 present levels, a significant increase in bad debt
4 would also decrease the value of BellSouth's Billing
5 and Collections Services to the IXCs. Higher
6 uncollectibles for toll service and lowered revenue
7 for Billing and Collection Services could force
8 telecommunications providers to increase the price of
9 overall telecommunications services to paying
10 customers in order to recover these losses.

11

12 The long term result would be to transfer increases in
13 expense related to uncollectibles and bad debt to the
14 vast majority of consumers who pay their bills on
15 time. In other words, such a change in the rule will
16 benefit consumers who do not pay their bills and
17 penalize the majority who do.

18

19 A better alternative to Mr. Poucher's proposal is the
20 recently implemented Toll Credit Limit (TCL)
21 procedure. This allows a customer to retain local
22 service, including a free toll block, while satisfying
23 an unpaid toll balance through a payment arrangement.

24

1 Q. Mr. Poucher's testimony (page 8, lines 22-25) states
2 that there were numerous cases where the LECs have
3 threatened disconnection of local service in order to
4 collect charges due to a slamming carrier. By
5 eliminating the provision in the rules that would
6 credit the customer's account, will these situations
7 of threatening or actual disconnection of local
8 service continue?

9
10 A. No. The objective, as stated by Mr. Poucher, is to
11 disassociate the customer's regular telephone billing
12 from the disputed billing. BellSouth's current
13 Business Office procedures provide for this
14 disassociation in an appropriate manner. When a
15 customer calls the Business Office with a slamming
16 complaint, the service representative will change the
17 customer back to the customer's original carrier. The
18 service representative will also offer to freeze the
19 customer's PIC. The service representative will then
20 discuss with the customer what portion of the bill is
21 being disputed. The disputed amount will be noted on
22 the customer's account; collections activities and
23 late payment charges will not apply to this amount
24 until the dispute is resolved.

25

1 Q. What type of payment arrangements are made for the
2 customer given the dispute?

3

4 A. The customer is advised that the normal portion of his
5 bill should be paid. The disputed charges continue to
6 be listed on the customer's bill; however, the
7 customer is instructed to ignore payment of the
8 disputed amount that was agreed upon with the service
9 representative. The carrier will be notified of the
10 PIC dispute and the amount in question; the carrier
11 can then contact the customer to confirm the amount in
12 dispute. Once confirmed, the carrier will communicate
13 the disputed amount back to the BellSouth service
14 representative. BellSouth will adjust the customer's
15 account and recourse the amount back to the carrier.

16

17 Q. During this process, does BellSouth threaten to
18 disconnect the customer's local service for non-
19 payment of the disputed amount?

20

21 A. No. With BellSouth's procedure, local service should
22 never be disconnected or even threatened to be
23 disconnected as long as BellSouth is made aware that a
24 dispute exists.

25

1 Q. Mr. Poucher includes in his testimony (page 6, lines
2 9-10) an additional recommendation, that was not
3 incorporated into the rules, he suggests blocking the
4 customer's account from future billing from the
5 carrier that caused the slam. Does BellSouth have any
6 concerns over this proposal?

7
8 A. Yes. Although this recommendation was not
9 incorporated into the proposed rules, BellSouth has
10 concerns about such a proposal. First, BellSouth does
11 not have the capability today to block billing by a
12 specific provider to a particular customer. In
13 situations requiring this action, BellSouth currently
14 requests that the provider block the charges, a
15 request that they have been very cooperative in
16 handling.

17
18 Q. How does the provider accomplish this?

19
20 A. They accomplish this by including the customer's
21 telephone number on their "bad Automatic Number
22 Identification (ANI)" list. Inclusion on this list
23 prevents calls from being terminated to the carrier by
24 any dialing sequence and thus eliminates any billing.

25

1 Q. Are there other concerns?

2

3 A. BellSouth's other concern is that by blocking billing
4 without blocking traffic, the opportunity for consumer
5 fraud would be introduced. Customers could continue
6 to complete calls via casual dialing while blocking
7 providers from the ability to collect for those calls.

8

9 Q. Please describe what, if any, customer education
10 proposals that BellSouth supports regarding slamming.

11

12 A. BellSouth agrees with Mr. Poucher's proposal number
13 10 (testimony page 7 line 24 through page 8 line 1)
14 that states "...LECs and ALECs should be required to
15 publish annually a billing insert that explains a "PIC
16 freeze" and provides a customer with instructions on
17 how to obtain a 'PIC Freeze'". BellSouth also agrees
18 that the customer should receive educational
19 information regarding PIC freezes when they receive
20 their first bill.

21

22 Q. How will the information be presented on the
23 customer's first bill?

24

1 A. There is a For Your Information (FYI) section on the
2 customer's first bill that provides the customer with
3 important information about his new service. This
4 section would be the most appropriate place to include
5 information about the PIC freeze option. BellSouth
6 would also support public interest newspaper articles,
7 and public service announcements on TV/radio that
8 inform the public about slamming - what it is, what to
9 do/who to call if they suspect they have been slammed
10 and what to expect from the process.

11

12

13 Q. Does BellSouth support proposed rules 25-4.110(12) and
14 25-4.003(41)?

15

16 A. No. BellSouth could support proposed rules 25-
17 4.110(12) and 25-4.003(41) with a modification to
18 include the option of accepting a PIC freeze from the
19 customer directly over the phone. In situations where
20 a customer has been slammed, it would best serve the
21 customer to be able to switch them back to their
22 original carrier and immediately implement the PIC
23 freeze on the spot with the customer's authorization.
24 This is consistent with BellSouth's current policy.
25 Such immediate action prevents any delay that would

1 occur in mailing a form to the customer and awaiting
2 its return.

3

4 Q. Is BellSouth opposed to mailing forms to customers to
5 obtain authorization for PIC freezes?

6

7 A. Yes. BellSouth would prefer to function in a
8 paperless environment in the PIC freeze process;
9 however, if PIC freeze forms were to be part of the
10 process, we would require that the PIC Freeze form be
11 submitted by the customer rather than the provider.
12 This would ensure that the customer had truly
13 authorized a PIC freeze and that the provider was not
14 unilaterally initiating an anti-competitive action.

15

16 Q. Can BellSouth institute a PIC freeze for local
17 service, local toll and toll service today?

18

19 A. PIC Freeze capability is currently only available for
20 local toll and toll service providers and only against
21 the specific PIC or LPIC codes. In the systems that
22 are used to process change requests, it is these two
23 codes (PIC and LPIC) that are restricted from change.
24 Currently BellSouth does not have the ability to
25 freeze a provider change to a reseller of local toll

1 or toll service since the PIC and LPIC do not change.
2 Neither could BellSouth freeze a provider of local
3 service since the switches and support systems do not
4 yet include a code to designate the local service
5 preferred carrier.

6

7 Q. Proposed Rule 25-4.118(11) requires that the customer
8 be informed that a PIC freeze is available during
9 telemarketing and verification. Does BellSouth
10 support this proposed rule?

11

12 A. Yes.

13

14 Q. Does BellSouth support rules that prohibit deceptive
15 marketing practices?

16

17 A. Yes. BellSouth supports the proposed rule 25-
18 4.118(10) that disallows misleading or deceptive
19 references during telemarketing and verification.
20 BellSouth would also embrace an expanded rule such as
21 Mr. Poucher's proposal #5 (testimony page 7 lines 1-3)
22 that would generally forbid "the use of deceptive and
23 unfair trade practices by telecommunications companies
24 regulated by the Commission".

25

1 Q. Does BellSouth endorse the proposed rules 25-4.118
2 (1)-(7) (9), dealing with verification procedures?

3

4 A. Yes. These procedures allow the current verbal
5 verification of the customer to apply to inbound
6 customer calls or letters requesting provider changes.
7 BellSouth also accepts change requests from 3-way
8 calls with the provider, the customer and BellSouth
9 subject to verbal verification of the customer.

10

11 For changes submitted by a LP or IXC acting on behalf
12 of the customer, BellSouth currently performs
13 verification in compliance with these rules for over
14 90% of our outbound telemarketing sales. BellSouth
15 has found that operating within these rules is
16 effective and customer friendly and can easily expand
17 our procedures for 100% compliance. The FPSC staff
18 has minimized the burden on the industry by providing
19 choices to providers as to the method of verification
20 which best fits their operational environment.

21

22 Q. Proposed rule 25-4.118(12) states that upon completion
23 of the verification process used for outbound
24 telemarketing, the provider must send a letter
25 notifying the customer that it will be providing the

1 customer's service. Does BellSouth have any concerns
2 about this rule?

3

4 A. No. BellSouth currently sends a welcome letter to all
5 customers obtained through telemarketing upon
6 completion of the verification process. This letter
7 advises customers that their new provider is
8 BellSouth.

9

10 Q. Once the verification process is complete, the change
11 order for local toll and/or toll service provider is
12 created by the provider and passed to BellSouth. The
13 majority of these change orders are processed through
14 a mechanized system called "Customer Accounts Records
15 Exchange" into the internal provisioning systems.
16 What verification takes place on these mechanized
17 change orders received from carriers?

18

19 A. The CARE system has a combination of strict edits in
20 place that requires the carrier to send the correct
21 Bill Name or Billing Telephone Number/Customer Code
22 belonging to the Working Telephone Number (WTN) to be
23 changed. This is to ensure that the WTN submitted is
24 the correct one. CARE also has an indicator in the
25 CARE record "Name Edit By-Pass Indicator" that can be

1 populated by the carrier to specifically request that
2 all Name edits be by-passed. Having this capability
3 places the burden of a correct WTN on the carrier.

4
5 Mr. Poucher recommends that the LECs should be
6 required to reject orders when the correct last name,
7 address and telephone number of the customer is not
8 transmitted by the carrier (page 7 lines 16-20).

9 While this recommendation was not incorporated into
10 the currently proposed rules, the billing name and
11 telephone number verification portion of his
12 suggestion could be easily implemented for the
13 majority of orders processed through CARE for local
14 toll and toll provider changes.

15
16
17 Q. Do the proposed rules and procedures advantage
18 BellSouth in the carrier selection process?

19
20 A. No, BellSouth is not advantaged in any way. Mr.
21 Watts, in his testimony (page 10, lines 1-6), alleges
22 that the ILECs are no longer disinterested parties
23 regarding slamming regulations. He states further
24 that ILECs should not be advantaged in the carrier
25 selection process. By BellSouth's extensive

1 participation in this proceeding and associated
2 workshops, it is clear that BellSouth is an interested
3 party regarding slamming regulations, not only on its
4 own behalf as a local and local toll provider, but
5 more importantly on behalf of its customers.
6 BellSouth's Business Office representatives typically
7 receive the initial complaints. BellSouth continues
8 in this effort by helping the customer work through
9 the process, bearing much of the brunt of the emotion
10 that was expressed by witnesses in the numerous
11 workshops. As to being advantaged in the carrier
12 selection process in Florida, BellSouth would offer to
13 Mr. Watts that quite the opposite would be the
14 situation.

15

16 Q. How is BellSouth's situation different from what Mr.
17 Watts alleges?

18

19 A. BellSouth is under strict rules which prohibit the
20 company from marketing its intraLATA toll services.
21 These restrictions were imposed by the Commission in
22 1996. Since that time BellSouth has not had an
23 opportunity to present itself as a local toll provider
24 during inbound calls to its business offices.
25 Consequently, BellSouth has lost considerable market

1 share for local toll service. Given these
2 restrictions, and the fact that BellSouth is
3 prohibited from offering long distance services,
4 certainly BellSouth is not advantaged.

5

6 Q. Do you believe that the PIC change process can be
7 effectively administered by a neutral third party?

8

9 A. No. Because the majority of change orders are
10 mechanically processed from the carrier through our
11 support systems directly into the switch, the
12 management of this process flow is fairly
13 administered. Sprint's witness Buysse-Baker alleges
14 in her testimony (page 8, lines 24-25) that "ILECs
15 have already demonstrated a propensity to exploit the
16 slamming issue for their own competitive purpose" and
17 that because of this propensity, the PSC should
18 relieve the ILEC of their control of the PIC change
19 process.

20

21 Q. What is BellSouth's position regarding proposed rule
22 25-4.110(10)?

23

24 A. Proposed rule 25-4.110(10) specifies that after
25 January 1, 1998, all bills will display for the

1 presubscribed providers of local, local toll and toll
2 service the following information:

- 3 a) the name of the certificated company and its
4 certificate number;
5 b) the type of service provided (local, local toll or
6 toll); and
7 c) a toll free customer service number.

8 With appropriate billing program modifications and
9 with information provided by external sources,
10 BellSouth could comply with the requirements of the
11 proposed rule within character space limitations of
12 the bill. These modifications would represent a
13 significant project involving coordination with other
14 carriers, specific design requirements and
15 implementation which could not be accomplished without
16 significant lead time.

17

18 While BellSouth continues to believe that the
19 certificate number has little meaning to the customer,
20 we do appreciate that the certificate number will help
21 the Commission conduct investigations as pointed out
22 in PSC Staff witness Taylor's testimony (page 5, lines
23 16-17).

24

1 Q. Has BellSouth assessed the cost for making such
2 changes to its billing system?

3

4 A. Yes. BellSouth has provided cost information to
5 include the presubscribed carrier's information on the
6 bill which to BellSouth represents the carrier
7 associated with the PIC/LPIC code. The company does
8 not have knowledge of customer shifts between the
9 presubscribed carrier and their reseller customers.
10 In order to provide information on the customer's bill
11 as to the reseller carrier, that information will have
12 to come from external sources such as the underlying
13 carrier or the reseller.

14

15 Q. Witness Taylor alleges that BellSouth is somewhat
16 casual with its billing practices. How do you monitor
17 which carriers are allowed to participate?

18

19 A. BellSouth is not as casual about our billing and
20 collection services as Mr. Taylor has alleged in his
21 testimony that "... it would appear from the
22 complaints I have reviewed that no similar screening
23 takes place before access is granted by LECs to their
24 billing systems... Unfortunately, local telephone
25 companies may not even know who many of the companies

1 using their system are." (page 12, lines 21-24).
2 BellSouth maintains a database called the IXC Services
3 Authentication Table (ISAT) to prevent billing by
4 uncertified carriers. BellSouth will only bill
5 Florida intrastate charges if an IXC furnishes a copy
6 of its certification in Florida.

7
8 Q. Proposed rules 25-4.110(11)(a)(3), (12), (13) and (14)
9 were inserted into the December 24, 1997 revision of
10 the proposed rules. To your knowledge, was an
11 economic impact statement prepared on these proposed
12 rules in accordance with Florida PSC Rule 25-
13 22.014(1)(c) pursuant to Chapter 120.54 of the Florida
14 Statutes?

15
16 A. No. To my knowledge an economic impact statement was
17 not prepared on proposed rules 25-4.110(11)(a)(3),
18 (12), (13) and (14). These proposed rules were added
19 after the staff had issued its data request for the
20 economic analysis. An economic study needs to be
21 pursued for proposed rule 25-4.110(11)(a)(3), (12),
22 (13) and (14).

23
24 Q. Proposed rule 25-4.110(13) would require that the
25 customer must be given notice on the first or second

1 page of his next bill in conspicuous bold face type
2 when his provider of local, local toll, or toll
3 service has changed. Would the implementation of such
4 a rule be within the unilateral ability of BellSouth?

5
6 A. No, not in all cases. If the change involves local
7 service or local toll or toll service and the LPIC or
8 PIC code is changed, then BellSouth will have
9 information about this change and can include this
10 information on the customer's bill.

11
12 If the provider change involves local toll or toll
13 service and the LPIC or PIC code is not changed, then
14 BellSouth would have no knowledge of a provider
15 change. In order to fulfill the requirement of this
16 rule, industry-wide procedures would be required to
17 make that information available to BellSouth for
18 inclusion on the customer's bill. To my knowledge, no
19 such procedures exist today and it is my estimation
20 that the development of this information interface and
21 exchange would require significant coordination and
22 system development among all participants.

23
24 ~~Q. What are BellSouth's comments concerning proposed rule~~

25 ~~25-4.110(11)(a)(3)2~~

- 1
- 2 A. Proposed rule 25-4.110(11)(a)(3) deals with charges
3 for Pay Per Call and other non-regulated charges.
4 This proposed rule would require BellSouth to disclose
5 on each section of the bill containing Pay Per Call
6 service charges that the customers "can obtain a free
7 billing block option from the LEC to block all charges
8 from a third party. Bills submitted by third parties
9 with the subscriber's LEC-specific personal
10 identification number will validate the subscriber's
11 authorization of the charges and supersede the billing
12 block option. The subscriber is responsible for all
13 such charges." BellSouth could plan and execute the
14 inclusion of this disclosure statement on the
15 customer's bill; however, there are several
16 significant technical obstacles to offering this
17 option.
- 18
- 19 Q. What are the primary technical obstacles?
- 20
- 21 A. The Exchange Message Interface (EMI) record format,
22 the standard format managed by Bellcore for billing
23 toll charges in the United States, does not provide a
24 location for the IXCs to pass an end user Personal
25 Identification Number (PIN). Changes to the national

1 EMI format would be required to support this
2 information.

3
4 BellSouth's Message Processing system that associates
5 IXC messages with end user accounts does not contain
6 the end user PIN. Significant changes would be
7 required to make this information available.
8 Additional changes would be required to modify the
9 billing systems to use the PIN as part of the end user
10 account association process.

11
12 In today's environment BellSouth switches (end office
13 and Traffic Operator Position System (TOPS)) cannot
14 record PIN numbers entered by the customer. The
15 Automatic Message Accounting (AMA) recording that we
16 use to bill usage can include an "Alternate Billing
17 Number" but not the associated PIN. To enable
18 BellSouth to capture PINs in AMA recordings, the
19 switch vendors would have to make the changes in
20 signaling necessary to enter a PIN for other than
21 1+/0+ calls and enhance the AMA recording feature to
22 include recording of PINs.

23
24 Q. Please discuss the cost associated with implementation
25 of proposed rule 25-4.110(11)(a)(3).

1
2 A. The cost of developing a data base to validate these
3 PINs could be considerable, possibly equivalent to the
4 LIDB development costs.

5
6 This proposal would increase the BellSouth processing
7 cost of rejecting unbillables, and many would be
8 rejected erroneously. For example, if an end user
9 changed his PIN during the month, messages which were
10 valid when originated would be rejected as invalid at
11 the bill date. Unless a method of validating is
12 developed, fraud is likely to increase since an IXC
13 would not be able to verify a PIN given by an end
14 user. End users could make numerous calls, and then
15 change their PIN prior to his bill date to avoid
16 paying for them.

17
18 The proposed solution depends on the transmittal of
19 the caller's PIN to an Information Provider, who would
20 then return that information to the ILEC for
21 appropriate billing. This proposal contemplates
22 delivery of this very proprietary information to
23 classes of service providers who already are alleged
24 to engage in unscrupulous behavior, including fraud.

1 This increased exposure to fraud could easily offset
2 any gains predicted to be won by the proposal.

3
4 Q. In light of these concerns, does BellSouth believe
5 that implementation of this rule is premature?

6
7 A. Yes. To my knowledge this solution has not received
8 the scrutiny by BellSouth or others in the industry
9 that would be required for successful implementation.

10
11 Q. Does BellSouth have any other recommendation that you
12 could propose to correct this problem?

13
14 A. No, unfortunately not. This is not a problem that can
15 be corrected solely by BellSouth or any other
16 provider. This is not the same type of problem that
17 is experienced with disputed toll calls wherein the
18 IXC can place the customer on a bad ANI list to block
19 calls from and billing to that customer. BellSouth
20 currently has 900/976 blocking services in place;
21 however, that does not address calls placed to 800
22 numbers that are forwarded on to 900 type service
23 providers and billed as direct dialed calls or other
24 dialing schemes that avoid dialing 900 numbers to
25 reach 900 service.

1

2 Q. Mr. Taylor in his testimony at page 12, line 3 through
3 page 13 line 3, alleges that BellSouth is remiss in
4 the screening and monitoring of billing contracts. Do
5 you have any comments about your procedures in this
6 area?

7

8 A. Yes. BellSouth has implemented and enforces certain
9 standards applicable to all services for which billing
10 is provided. These standards help to provide
11 customers with adequate information regarding charges
12 that appear on the billing statement. In particular,
13 BellSouth has taken steps within the past year to
14 intensify the scrutiny of the many new services
15 submitted for approval prior to any charges for these
16 services being included on the BellSouth bill. As
17 many as 100 such services are submitted to BellSouth
18 each month for approval. These new services are
19 generated by billing and collections contract
20 customers of BellSouth as well as the hundreds of
21 clients/service providers that submit their billing
22 through the various billing clearinghouses. BellSouth
23 requires that each request for approval of a new
24 service be accompanied by a layman's description of
25 the service, charge phrase(s) to be used on the bill,

1 marketing materials and scripts to be employed with
2 end user customers. Also included are verification
3 procedures to be used by the service provider to
4 assure that the purchaser of the new service is the
5 responsible party for the telephone to be billed.
6 BellSouth rejects approximately 25% of the proposals
7 submitted each month for failure to meet the criteria
8 described above.

9
10

11 Q. Does BellSouth have plans to implement other
12 safeguards in the future?

13

14 A. Yes. BellSouth plans to implement in mid-1998 a table
15 which will contain all charge phrases approved for use
16 on an end user's bill. Adoption of this measure will
17 result in approved charge phrases that inform the end
18 user by identifying the nature of the charge as
19 completely as possible with the characters available.
20 BellSouth will bill only for services whose charge
21 phrases have been approved and entered into the table
22 after the review process. Charge phrases not approved
23 will be rejected. Also, this approach enables
24 BellSouth to take targeted action to stop billing for
25 a specific charge phrase that was initially approved

1 but later determined, based on complaints or other
2 criteria, to be unacceptable. Today, without this
3 table, BellSouth only has the capability to cut off
4 all services for a service provider. While the
5 approved charge phrase table will not completely
6 eliminate the possibility for unauthorized charges,
7 BellSouth believes it will reduce the number
8 significantly.

9
10 BellSouth also plans to include in future billing and
11 collection contract negotiations (beginning 1Q98)
12 language giving BellSouth broader discretion to
13 suspend or terminate billing when unauthorized charges
14 are discovered. Additionally, BellSouth is
15 considering language requiring the service provider to
16 verify that the end user subscribing to the service to
17 be billed on BellSouth's bill is the responsible party
18 for the billing telephone number.

19
20 Finally, BellSouth will investigate end user
21 complaints of third-party billing practices and is
22 prepared to take whatever action is necessary, up to
23 and including contract termination, when these
24 complaints are found to be well grounded.

25

1 Q. One final area of questioning, proposed rules 25-
2 4.118(13) and (14) address requirements of handling a
3 customer complaint of an unauthorized provider. What
4 are your comments concerning these proposed rules?

5
6 A. Proposed rule 25-4.118(13) will require that the
7 customer be provided with a copy of the change
8 authorization with 15 days of request. BellSouth
9 supports this procedure.

10

11 Proposed rule 25-4.118(14) outlines minimum standards
12 for the customer services support for all providers.
13 BellSouth supports these standards which will resolve
14 a significant problem experienced by witnesses in the
15 workshops. BellSouth's current procedures are in
16 compliance with the proposed rule.

17

18 Q. Please summarize the proposed rules BellSouth supports
19 and the rules that BellSouth does not support.

20

21 A. BellSouth supports the following proposed rules:

22 25-4.003 (1) through (40)

23 (42) through (56)

24 25-4.110 (1) through (9)

25 (11) (a) (1), (2), (4), (5) and (6)

1 (11) (b) through (g)

2 25-4.118 (1) through (7)

3 (9) through (14)

4

5 BellSouth does not support the following proposed

6 rules:

7 25-4.003 (41)

8 25-4.110 (10)

9 (11) (a) (3)

10 (12)

11 (13)

12 25-4.118 (8)

13

14 Q. Does this conclude your testimony?

15

16 A. Yes.

17

18

19

20

1 **CHAIRMAN JOHNSON:** And there's a summary?

2 **WITNESS HENDRIX:** Yes. BellSouth is opposed
3 to slamming and agrees that an effort should be made
4 to address this issue. The primary course of action
5 is and should be to fine those that are repeat
6 slammers.

7 Second, there should be one set of rules for
8 all jurisdictions eliminating customer confusion in
9 allowing companies to be more efficient.

10 If we move forward with the revisions to the
11 existing rules, BellSouth would propose that we
12 continue to use postcards to cancel or deny service
13 and, if an audio recording is required as an option,
14 that it should be used when a third party, such as
15 someone marketing to customers, is involved in this
16 process.

17 Finally and third, carriers making
18 unauthorized changes should not benefit from having
19 done so. However, the end user should be obligated to
20 pay for the calls that were actually made. And then
21 the carrier should be remitted, the primary carrier of
22 that customer should be remitted the charges that he
23 would have billed that end user customer.

24 That concludes my summary.

25 **MR. MARKS:** Madam Chair, Mr. Hendrix is

1 available for cross-examination.

2 **CROSS EXAMINATION**

3 **BY MS. WARD:**

4 Q I just have a few questions. Good
5 afternoon, Mr. Hendrix. I'm Marsha Ward. I represent
6 MCI.

7 A Good afternoon.

8 Q I'd like to discuss with you, on Page 4 of
9 your rebuttal testimony you discuss the no fault or
10 expedited PIC switch-back service.

11 A Yes, I did.

12 Q Does BellSouth provide expedited PIC
13 switch-back service to all carriers or all
14 interexchange carriers?

15 A All customers, all carrier customers,
16 wanting to order though service from the tariff could
17 actually avail themselves of that service.

18 Q And to your knowledge, is MCI a subscriber
19 to BellSouth's expedited PIC switch-back service?

20 A To my knowledge, they are.

21 Q And other carriers are as well?

22 A Yes. Mostly the major carriers have
23 actually ordered the service from the tariff.

24 Q If MCI has a customer who calls BellSouth
25 and asks to be switched back to their carrier of

1 choice or to their previous carrier, and as you
2 stated, MCI subscribes to the expedited switch PIC
3 back -- or PIC switch-back service, does BellSouth
4 just automatically switch that customer back?

5 A Yes, we do.

6 Q Does BellSouth ask that customer or
7 investigate the reason why that customer desires to
8 switch back?

9 A No, we do not.

10 Q Does MCI or the subscribing carrier pay
11 BellSouth for this service?

12 A Yes, it is. There is a tariff rate, I
13 believe, without looking for the tariff, that is
14 somewhere in the neighborhood of \$10 per transaction.

15 Q And does that cover the cost of switching
16 the customer back to their carrier?

17 A Yes, since there aren't any questions asked
18 and since there is no -- there's no further steps
19 being taken by BellSouth to ask the customers to why
20 the customers wanted to make this change.

21 Q How quickly can BellSouth make this
22 switch-back?

23 A We do it then at the time that the customer
24 is asked to be switched back; so as soon as -- as long
25 as it would take simply to place the order through the

1 carrier system to make that work, happen in the
2 office, then it happens.

3 Q Is that within 24 hours generally?

4 A Yes, it is.

5 Q Does BellSouth believe that that is, that
6 this expedited switch, or PIC switch-back service, is
7 a benefit to consumers?

8 A We really do; one benefit being that it
9 allows the customer to get back to the carrier that
10 they thought they were with at that time. It also
11 will allow that customer to experience the benefits
12 that they thought would be gained by having that other
13 carrier.

14 Q And, also, the customer would not be, if
15 they're perceived as -- well, they wouldn't be held
16 hostage if some of the complaints seem to be directed
17 that their -- the previous carrier might have not
18 switched them back to their carrier of choice as
19 quickly?

20 A That's correct.

21 Q Now, is it your testimony, Mr. Hendrix,
22 then, that all reported incidents in the expedited PIC
23 switch-back report are attributable to unauthorized
24 PIC changes? Or does that report also contain other
25 types of maybe just customer dissatisfaction, buyer's

1 remorse, domestic or spousal disputes, things of that
2 nature as well?

3 A It contains all, so it's not simply
4 unauthorized changes.

5 MS. WARD: Thank you. That's all I have.

6 CROSS EXAMINATION

7 BY MS. RULE:

8 Q Marsha Rule with AT&T. If I understand your
9 testimony with regard to the PIC switch-back report
10 then, you can't use it as a surrogate for slamming
11 complaints?

12 A Okay. You said relative to the PIC
13 switch-back report?

14 Q Report. Or numbers of expedited
15 switch-backs that you make for other carriers doesn't
16 equate to slamming complaints then, does it?

17 A It doesn't mean that the customer was
18 actually slammed or changed without the customer's
19 knowledge or someone in that household's knowledge.
20 There could be other reasons as to why the customer is
21 asking to be switched back.

22 Q So anytime a customer calls and asks to be
23 switched back, they're just switched back, no
24 questions asked?

25 A For carriers and -- for our carrier

1 customers ordering the service, the answer is yes.

2 MS. WARD: Thank you.

3 CROSS EXAMINATION

4 BY MR. BECK:

5 Q Mr. Hendrix, you're familiar with the
6 workshops held by the Commission in this case, are you
7 not?

8 A I am, yes.

9 Q Did you attend any of them?

10 A I did not. No, I did not.

11 Q Did you read the transcripts from those?

12 A I have actually scanned through most, and
13 I've asked someone to put together a summary. So I
14 have a summary of most of the -- of all of the
15 workshops, really. But someone was present from
16 BellSouth at all of those workshops, but I was not
17 present.

18 Q Did you read the summaries that were
19 prepared for you?

20 A Yes, I did.

21 Q Let me ask you about your PIC freeze
22 procedure.

23 A Yes.

24 Q Could you explain what BellSouth's procedure
25 is with respect to PIC freezes?

1 A The PIC freeze, if an end user customer
2 calls and would indicate that they were wanting their
3 PIC to be frozen where no other carrier can call in to
4 change that PIC, then we would go in on a customer's
5 record and make that indication.

6 Q Does a customer have to fill out a form
7 that's provided by BellSouth?

8 A No, the customer does not. They can simply
9 call and we will make that happen. We, of course,
10 will verify that it is the authorized person asking
11 that his PIC be frozen.

12 Q How do you do that?

13 A Through conversations on the phone with the
14 customer to verify what is in the record, the billing
15 name and so forth.

16 Q On Page 12 of your rebuttal testimony, you
17 discussion information about bad automatic number
18 identification lists. Could you briefly describe what
19 those are?

20 A Yes. What that is, it is a list that
21 whenever -- well, the reason this is addressed, first,
22 is because of us not being able to refuse billing to a
23 certain customer where the carrier can, in fact, make
24 that happen. And when a customer has been slammed,
25 then we will go and talk with the carrier, and the

1 carrier has this bad ANI list wherein there would be
2 no calls coming from this carrier to that end user
3 customer. But it's not something that we would
4 actually do, but it's something that's actually done
5 by the carrier.

6 Q When you say carrier, are you referring to
7 the interexchange carrier?

8 A Interexchange carrier, yes.

9 Q Do you know whether that's universally
10 available by all interexchange carriers?

11 A No, I do not know. I would think if it
12 isn't, it is something they may have an interest in,
13 given the nature of this docket and what is going on
14 throughout the country.

15 Q Do you know whether the major carriers have
16 that capability?

17 A No, I do not know.

18 Q If a carrier puts a customer on the bad ANI
19 list, would that prevent all calls through that
20 carrier's network from being charged to the customer
21 or carried?

22 A It will prevent calls from that carrier from
23 being terminated to that customer.

24 Q So, for example, if that carrier were
25 handling 800 numbers, would it prevent calls from --

1 to a customer on that or not?

2 A That's interesting. You must have read my
3 notes, because that was the very question I asked; and
4 the answer is yes. It will prevent all calls that
5 would have feature Group D type signaling, any ANI
6 that is actually passed, it will allow that to be
7 locked.

8 Q Mr. Hendrix, I didn't read your notes.

9 (Laughter)

10 MR. BECK: That's all I have. Thank you.

11 **CROSS EXAMINATION**

12 **BY MS. CALDWELL:**

13 Q Mr. Hendrix, I'm Diana Caldwell. On Page 9,
14 Line 19 of your testimony, it's your understanding
15 that the customer initiated calls must be verified; is
16 that correct?

17 A Is that in the direct?

18 Q I think that's in your direct testimony,
19 yes.

20 A Direct. Okay. Your question again? I'm
21 sorry.

22 Q Well, is it your understanding that customer
23 initiated calls must be verified?

24 A Customer initiated inbound calls?

25 Q To the LEC, right.

1 A No.

2 Q Okay. So it's your understanding that the
3 rule only requires that the company regard the
4 customer's request and no further verification is
5 required?

6 A That is correct.

7 Q Does that change your testimony, then?

8 A At what point? I'm sorry.

9 Q Well, on Page 9, in reading, it didn't seem
10 like -- it looked like you didn't understand the
11 intent of the rule, because you seemed to say that it
12 should not -- that further verification was required,
13 where it does not require further verification.

14 A And my response to your previous question
15 was in response to how I understood the rules?

16 Q Right. It seemed like in your direct
17 testimony you did not understand it the same way as
18 you understand it today, and I just wanted to make
19 sure that you understood that the rule does not
20 require -- it only requires that the company record
21 the customer's request and no further verification
22 would be required.

23 A Okay. And I'm sorry; I must have
24 misanswered your previous question. I did not
25 understand that. I do now if you're telling me that

1 that is, in fact, the case.

2 Q And that's what you would want reflected in
3 your direct testimony?

4 A That is correct.

5 Q All right. Do you have any experience that
6 customers benefit from notification in the first bill
7 that a change has been made of a change of their
8 carrier?

9 A I do not have any, but let me speak on
10 another front that I think would parallel what you're
11 asking since I'm the one responsible for signing all
12 of the CLEC contracts.

13 I can see where the notice up front that a
14 change has been made will be beneficial, especially
15 with the number of customers, carrier customers, we
16 have coming into the marketplace. And you were
17 speaking of the first bill?

18 Q Right.

19 A Yes.

20 Q Moving on to your testimony that Mr. Beck
21 was discussing, the expedited PIC switch-back service,
22 is this service offered to ALECs or other local
23 providers and local toll providers as well, or just
24 the IXC or long distance providers?

25 A The tariff is not restricted as to who the

1 service is actually available to. I would venture to
2 say as we move down the road with CLEC's, local
3 carriers, that they themselves would probably find
4 some need for this service; but the tariff has not
5 been modified to include that.

6 Q Do you know whether your software
7 capabilities can handle that at this time?

8 A Currently I would say that it's not likely
9 that it will. We're still trying to work through the
10 issues of handling local PIC freezes and everything
11 else associated with local. So I would say that it
12 could not at this point, but it is something that is
13 very high on the list to work on to make happen.

14 Q Okay. Do you believe that it's possible
15 under the current rules for a local exchange company
16 to bill for an uncertificated entity?

17 A I will address that -- provided it's okay
18 with you, of course -- from a BellSouth standpoint.
19 It will not happen in BellSouth. Relevant to outside
20 of the BellSouth region, it could. I do not know.
21 But we do not bill unless we have a certificate from
22 the carrier for this state stating that they are
23 authorized to provide services in that state. In this
24 state, rather. I'm sorry.

25 Q Do you believe that companies contacting

1 customers for the purpose of changing their service
2 should obtain authorization from the customer of
3 record on file with the LEC? Let me restate that.

4 Does BellSouth have a policy as to its
5 agents or if it's doing any marketing as to who can
6 authorize a change?

7 A If a customer is calling, let's say it's an
8 inbound call, then we would verify with that customer
9 whether that person would have authority to make that
10 change.

11 Most of the other, and by far most of the
12 changes are made through our CARE system wherein there
13 is no manual intervention. If, in fact, there is a
14 reject from CARE, which is the CARE system that many
15 of our carrier customers would actually use, if there
16 is a reject, then you would have a three-way call; and
17 that three-way call is with the carrier, in many cases
18 BellSouth, as well as the customer to walk through
19 that process.

20 So we have the customer on the line, in that
21 case the inbound, the customer is likely the one that
22 is making that change, and we will verify that. And
23 then there's only a few other, a very, very few
24 others, that would be handled through the equal access
25 service center, as I just mentioned.

1 Q Okay. Do you agree that customers should be
2 able to tell who the LEC is billing or collecting for,
3 to be able to tell, if they were reading the bill,
4 that they should be able to understand who BellSouth,
5 in this case, would be billing for?

6 A Yes, I would agree.

7 Q And would you agree that if the customer
8 doesn't know who you're collecting for, that it would
9 be confusing to the customer?

10 A Oh, yes; definitely.

11 Q And do you believe that it would be
12 desirable for the customer to have that information
13 that if BellSouth is billing for different entities,
14 that they should list each of the entities that is
15 being billed for on the bill?

16 A Yes. And just to go one step further, we
17 currently do. I know for our customers receiving
18 bills from BellSouth, the carrier insert which is a
19 part of that bill is clearly labeled wherein the
20 customer without a doubt would know exactly who is
21 actually being billed -- I mean, whose bill that
22 customer is receiving through the BellSouth bill.

23 Q Do you agree that the expedited switch-back
24 is an after-the-fact solution to slamming and occurs
25 after the customer has been slammed?

1 A That's a difficult question, so I'm going to
2 try to answer it in parts. Understanding, first, that
3 this is a service where there are no questions asked,
4 there could be many reasons as to why the changes were
5 actually made.

6 With that as a premise, the bottom line is
7 that there is no difference in whether the customer is
8 slammed or whether the customer was changed by some
9 other party. The fact of the matter is the end result
10 is that the customer was actually changed.

11 So I don't agree that they are one and the
12 same as slamming in using this. In fact, I do not
13 know how many of the customers that were switched back
14 simply as a result of the carrier customer having
15 purchased a service, how many of those were actually
16 slammed versus remorse or some other reason for the
17 change; but I don't believe that it's the same as
18 slamming.

19 Slamming to me is a willful act and is being
20 done to where the carrier customer is wanting to
21 benefit in a monetary sense from having done it.

22 Q As part of this service, then, you really
23 don't go into any investigation at all; you just do
24 it, no questions asked?

25 A That's correct.

1 Q Using this expedited switch-back process,
2 does the customer get switched back to the level of
3 benefits from his previous carrier, such as if he went
4 back to MCI, do you know if he was on the Friends and
5 Family program, whether he would go back to that
6 Friends and Family program?

7 A Let I'm assuming that the customer will.
8 And let me just state also, in previous testimony
9 given it was assumed that the customer would always go
10 back to something that was better, and that may not be
11 the case here.

12 It may be that the customer has had other
13 reasons for changing, you know, simply being loyal to
14 the previous carrier. So it is not always a win for
15 the customer to go back, and if another party had
16 actually authorized the change to be made, it may be
17 because it was to the customer's benefit to go the
18 other way.

19 So to my knowledge, when the customer is
20 switched back, that it is switched back as if the
21 customer had not moved, or had not changed carriers.
22 So he would go back to the Friends and Family or any
23 other optional plan that he may have had with his
24 carrier.

25 **COMMISSIONER CLARK:** Mr. Hendrix, you don't

1 **MICHAEL SCOBIE**
2 was called as a witness on behalf of GTE Florida,
3 Incorporated and, having been duly sworn, testified as
4 follows:

5 **DIRECT EXAMINATION**

6 **BY MS. CASWELL:**

7 **Q** Can you please state your name and address
8 for the record, please.

9 **A** Yes. My name is Michael Scobie. My address
10 is One Tampa City Center, Tampa, Florida 33601.

11 **Q** And who is your employer?

12 **A** GTE Service Corporation.

13 **Q** What is your position there?

14 **A** I am the regulatory affairs manager for
15 Florida and Georgia.

16 **Q** Did you file rebuttal testimony in this
17 proceeding?

18 **A** Yes, I did.

19 **Q** Do you have any changes to that testimony?

20 **A** The only change is to strike, I guess,
21 beginning on Page 5, Line 8 through Page 6, Line 2,
22 the testimony concerning the billing block option.

23 **Q** And with those changes, if I were to ask you
24 those same questions today, would your answers remain
25 the same?

1 **A** Yes, they would.

2 **MS. CASWELL:** Madam Chairman, I would ask
3 that Mr. Scobie's testimony be inserted into the
4 record as though read.

5 **CHAIRMAN JOHNSON:** It will be so inserted.
6 What did we strike, again?

7 **WITNESS SCOBIE:** It was Page 5 beginning at
8 Line 8 through Page 6 through Line 2, including
9 Line 2.

10 **CHAIRMAN JOHNSON:** Thanks.

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GTE FLORIDA INCORPORATED
REBUTTAL TESTIMONY OF CHARLES M. SCOBIE
DOCKET NO. 970882-TI

Q. PLEASE STATE YOUR NAME AND ADDRESS.

A. My name is Charles Michael Scobie. My business address is One Tampa City Center, Tampa, Florida.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am employed by GTE Service Corporation (GTEFL) as Regional Manager-Regulatory Affairs and Tariffs.

Q. WILL YOU BRIEFLY STATE YOUR EXPERIENCE WITH THE COMPANY?

A. I have been employed by GTEFL for over twenty-seven years. For the past nine and one-half years I have been employed in the regulatory and governmental affairs area of GTE Florida and GTE Service Corporation. Prior to my present assignment, I held the positions of South Area Regulatory Affairs Manager, Tariff Administrator and Service Cost Coordinator in the same department. During my career, I have also held positions in Sales, Market Planning, and Forecasting with GTE Florida and positions in Market Planning with GTE Service Corporation.

1 Q. **WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

2 A. The purpose of my testimony is to respond to the direct testimony of
3 the other parties, principally Mr. Taylor of the PSC Staff, Mr. Poucher
4 of the Office of Public Counsel and Ms. Buysse-Baker of Sprint
5 Telecommunications Company.

6
7 Q. **WHAT IS YOUR OVERALL IMPRESSION OF THE OTHER
8 PARTIES' TESTIMONY?**

9 A. Before looking specifically at individual recommendations contained
10 in the direct testimony, we should focus on what should be the
11 outcome of this investigation. As Mr. Hendrix of BellSouth and Mr.
12 Watts of AT&T observe in their testimony, the preponderance of
13 slamming is caused by a relatively small number of carriers who
14 willfully and repeatedly use slamming tactics. The primary goal of this
15 Commission, as well as the industry, should be to minimize the
16 incidence of slamming resulting from intentionally misleading and
17 fraudulent marketing techniques. AT&T's Mr. Watts aptly notes that
18 the enormous number of transactions and contacts by AT&T and
19 other carriers makes it "unrealistic to expect this problem to be
20 eliminated entirely." (Watts Direct Testimony (DT) at 7.) Mr. Taylor
21 is thus correct that the Commission in this case needs to
22 "balanc[e]...the benefits of full competition against the abuses that are
23 occurring in the Florida market." (Taylor DT at 16.) While he seems
24 to recognize the conceptual need for such balance, Mr. Taylor's
25 recommendations do not, unfortunately, adhere to this principle. The

1 substantial cost of his suggestions for the industry and, in turn,
2 consumers is wholly unjustified and unreasonable.

3

4 **Q. WHAT WOULD BE THE BEST WAY TO ACCOMPLISH THE GOAL**
5 **OF REDUCING WILLFUL SLAMMING?**

6 **A.** The most effective way, as Mr. Hendrix and others described, would
7 be the application of significant financial penalties, suspension and
8 withdrawal of certification for those carriers who willfully and
9 repeatedly use slamming tactics.

10

11 **Q. WHY DO YOU THINK THIS IS THE BEST APPROACH, GIVEN MR.**
12 **TAYLOR'S TESTIMONY TO THE CONTRARY?**

13 **A.** It is far better, from a policy and competitive efficiency prospective, to
14 use existing measures, rather than apply complex and costly new
15 regulations. The Commission already has the ultimate power of
16 canceling certificates and applying heavy fines, that, when utilized,
17 will remove the financial incentive to engage in marketing practices
18 that result in slamming. Mr. Taylor appears to admit on Page 7 of his
19 testimony that the slowness of the regulatory process is a problem in
20 dealing with this issue. However, rather than imposing a number of
21 costly and potentially confusing administrative requirements, the Staff
22 should focus on streamlining the regulatory process to ensure swift
23 justice to the companies willfully and repeatedly slamming.

24

25

1 Q. CAN YOU CITE A SPECIFIC EXAMPLE OF A POTENTIALLY
2 CONFUSING REQUIREMENT SUGGESTED BY MR. TAYLOR?

3 A. Yes. Mr. Taylor states that requiring the certificate number to be on
4 the bill will help reduce customer confusion. (Taylor DT at 5.) But
5 the certificate number means nothing to the typical customer, as
6 parties have pointed out in their Direct Testimony, and as GTEFL and
7 many others agreed at the workshops in this case. A close reading
8 of Mr. Taylor's testimony confirms that likely reason for this proposal
9 is to make it easier for Staff to investigate carrier-related complaints.
10 (Id. at 5.) While this objective is, in itself, not objectionable, it would,
11 in this case, compromise the pro-consumer goal of simplifying end
12 user bills. Only information that is meaningful to the customer should
13 appear on the bill. GTEFL already requires the certificate number of
14 carriers for which it provides network access. Those carriers, in turn,
15 are required to ask for the certificate number of any companies to
16 which they provide service. I would submit that it would be a
17 relatively easy matter for Staff to develop an internal list of certificated
18 carrier names and carrier numbers. Conversely, it would be a very
19 difficult and costly matter to require printing of all certificate numbers
20 on bills, since the billing system is not currently designed to perform
21 such a function. Mr. Hendrix describes this problem in more detail
22 in his Direct Testimony.

23
24 Q. WHAT ABOUT THE CONSUMER'S RESPONSIBILITIES IN THE
25 CURRENT MARKET ENVIRONMENT?

1 A. In a competitive, open-market environment, consumers must be
2 expected to take some responsibility for knowing their service choices
3 and providers. GTEFL believes that it currently provides sufficient
4 information to customers—on the bill and in inserts—to inform the
5 customer who his providers are for local, local toll, and toll service, if
6 the customer would only take the time to read it.

7

8 ~~Q. ON PAGE 8 OF HIS TESTIMONY, MR. TAYLOR PROPOSES A
9 FREE BILLING BLOCK OPTION MECHANISM TO COMBAT THE
10 PRACTICE KNOWN AS "CRAMMING." DOES GTEFL HAVE ANY
11 CONCERNS WITH THIS PROPOSAL?~~

12 ~~A. Yes. Beyond the obvious potential costs of setting up, assigning and
13 maintaining a PIN system for our over 1.5 million customers, the
14 proposal would not stop cramming if the same unscrupulous
15 providers gain access to the customer's PIN. At that point when
16 charges appear on the bill, would the ILEC be expected to
17 automatically sustain the charges since the PIN was transmitted? If
18 not, we're back to the same point we are now but with the addition of
19 a costly administrative mechanism.~~

20

21 ~~Q. DO YOU HAVE OTHER CONCERNS ABOUT MR. TAYLOR'S
22 RECOMMENDATIONS?~~

23 ~~A. Yes. Mr. Taylor states that he is not a design engineer, and neither
24 am I, but if billing information is coming to the LEC in an electronic
25 form using the national Exchange Message Record (EMR) format,~~

1 ~~there might not be fields available in that format to accommodate a~~
2 ~~multi-digit PIN. Modification of that format is a national billing issue.~~

3

4 **Q. MR. TAYLOR SEEMS TO SUGGEST THAT GTEFL AND OTHER**
5 **ILECS DON'T SEEM TO WANT TO TAKE STEPS TO ADDRESS**
6 **"CRAMMING." WHAT IS GTEFL'S RESPONSE TO THAT?**

7 **A.** In GTEFL's case, it is absolutely untrue. GTEFL is certainly aware
8 that "cramming" is a nationwide problem; because we operate in 28
9 states nationally and bill and collect for 70 carriers, including long-
10 distance companies, information providers, wireless service and
11 Internet access providers, we have necessarily taken a system-wide
12 approach to address the issue. In September of 1997, GTEFL
13 instituted a program that it believes will significantly reduce
14 "cramming" complaints.

15

16 **Q. WOULD YOU DESCRIBE THE PROGRAM?**

17 **A.** Yes. The program is designed to work with carriers to improve the
18 quality of their customer service. Although the root cause of the
19 complaint may rest with the carrier, GTEFL is the interface with the
20 customer and GTEFL has to deal with the majority of the customers'
21 frustrations in trying to resolve these problems. The program
22 establishes a complaint threshold for each carrier and if it's exceeded
23 for three consecutive months, carriers are put on notice to take steps
24 to reduce complaints below the threshold. If complaints continue to
25 exceed the standard over time, GTEFL will have the option to

1 terminate its billing service with that carrier. Although the program
2 has been in place for only a few months, GTEFL has seen complaints
3 drop by about half already. So this program is effective and is
4 concrete proof that GTEFL is listening to the marketplace to develop
5 solutions to slamming and cramming problems. GTEFL, moreover,
6 adds that billing is a tariffed service in Florida, so GTEFL does not
7 have the kind of discretion to pick and choose among entities for
8 which it will bill, as Mr. Taylor's testimony seems to suggest.

9
10 **Q. OPC'S MR. POUCHER ALSO PROPOSES A NUMBER OF**
11 **REQUIREMENTS IN HIS TESTIMONY IN AN ATTEMPT TO DEAL**
12 **WITH SLAMMING. THESE REQUIREMENTS HAVE NOW BEEN**
13 **EMBODIED IN THE PROPOSED RULES. WHAT IS GTEFL'S**
14 **POSITION ON THOSE?**

15 **A.** I would like to specifically address Mr. Poucher's ninth and tenth
16 proposals found on Pages 14 and 15 of his testimony. His ninth
17 proposal is that the LEC would have to display prominently, within the
18 first two pages of the bill, the name of the customer's local, local toll
19 and toll provider. Mr. Poucher would also require a bill insert to
20 reflect any carrier changes during the preceding billing period.

21
22 **Q. ARE THERE PROBLEMS WITH THIS PROPOSAL?**

23 **A.** Yes. The requirement to place this information in a specific location
24 that is different from where the information would normally be found
25 on the bill would require billing system modifications. This proposal

1 is unnecessary since adequate information about a customers'
2 carriers is already on the bill. GTEFL believes placement is not
3 critical, since it is reasonable to expect a customer to read the whole
4 bill and be familiar it.

5

6 **Q. WHAT ABOUT THE RECOMMENDATION TO PROVIDE BILL**
7 **INSERTS WHEN A CARRIER HAS CHANGED?**

8 **A.** GTEFL's current billing system cannot perform this function. Bill
9 inserts are placed in a bill based on either a central office location
10 code or a class of service (i.e., business or residence). They cannot
11 be placed in individual subscribers' bills based on a specific
12 telephone number, as Mr. Poucher's recommendation would require.

13

14 **Q. WHAT ABOUT MR. POUCHER'S PROPOSAL THAT NEW**
15 **CUSTOMERS RECEIVE A BILL INSERT THAT EXPLAINS A "PIC**
16 **FREEZE" IN THEIR FIRST BILL?**

17 **A.** Again, this is currently not technically feasible for the reasons cited
18 in my preceding answer.

19

20 **Q. THE SPRINT WITNESS, MS. SANDEE BUYSSE-BAKER,**
21 **INDICATES THE INCUMBENT LECS MAY BE USING THE PIC**
22 **CHANGE PROCESS TO SOMEHOW HARM THE**
23 **INTEREXCHANGE CARRIERS (IXCS). CAN YOU COMMENT ON**
24 **THESE ALLEGATIONS?**

25

1 A. Yes. Ms. Buysse-Baker's remarks are wholly unsupported. She
2 accuses the ILECs of "burying" their mistakes by "blaming other
3 carriers," states that the ILECs are using the PIC change process "to
4 damage the reputations of their competition," and blames at least
5 some of the perceived slamming problem on "blatant
6 misrepresentation by the ILECs." (Buysse-Baker DT at 6, 7, 8.)
7 Significantly, Ms. Buysse-Baker provides no evidence to back up
8 these claims, but simply remarks that it "is a reasonable presumption"
9 that the ILECs are engaging in activities to intentionally harm the
10 IXCs. (*Id.* at 6-7.) Aside from adding nothing meaningful to this
11 inquiry into slamming remedies, Ms. Buysse-Baker's comments are
12 simply untrue. Moreover, there is usually a very clear trail to the
13 cause of the slamming in instances where GTEFL is asked to
14 investigate a complaint. When there has been a human error in
15 processing a PIC change involving GTEFL personnel, that fact has
16 been reported back to the investigating regulatory body.

17

18 **Q. DO YOU THINK ASSIGNING THE PIC CHANGE ORDER PROCESS**
19 **TO A THIRD PARTY, AS MS. BUYSSE-BAKER SUGGESTS,**
20 **WOULD REDUCE SLAMMING?**

21 A. No. This approach would do nothing to reduce the willful acts that
22 are the chief cause of the slamming problem. As for those few
23 instances in which human error plays a part in mistaken carrier
24 changes, GTEFL doesn't believe the imposition of an additional party
25 will have any effect in reducing those mistakes. On the contrary,

1 injecting an additional entity into the process would tend to increase
2 the opportunity for human error. Ms. Buysse-Baker's extreme
3 solution seems to rest on her particularized view that the ILEC is
4 engaging in anticompetitive activity. But unfounded suspicions are
5 not enough to impose a potentially costly mechanism on the carriers,
6 including the vast majority who do not slam.

7

8 **Q. ARE THERE OTHER PROBLEMS WITH THIS PROPOSAL?**

9 **A.** Perhaps the major problem will be consumer frustration on calls to the
10 ILEC to change a PIC or on calls to the ILEC establishing service.
11 For a subscriber to be told that they have to make another call to their
12 carrier or to the PIC change administrator would appear to increase
13 the potential for customer frustration and confusion.

14

15 **Q. MR. HENDRIX AND OTHERS HAVE STATED IN THEIR**
16 **TESTIMONY THAT THERE SHOULD BE A CONSISTENT SET OF**
17 **FEDERAL AND STATE RULES RELATIVE TO SLAMMING. WHAT**
18 **IS GTEFL'S POSITION ON THAT PROPOSAL?**

19 **A.** GTEFL agrees. If states establish different requirements, consumers
20 would face potentially confusing state-specific rules and national and
21 regional carriers, including multi-state ILECs, would face costly
22 administrative processes in dealing with different sets of state rules.
23 The economic costs of these rules will ultimately be borne by
24 consumers.

25

1 **Q. HAVE MR. TAYLOR OR MR. POUCHER CONSIDERED THE**
2 **COSTS THEIR PROPOSALS WOULD HAVE FOR END USERS?**

3 **A. No, it doesn't seem they have given this factor much, if any,**
4 **consideration. As Mr. Hendrix's testimony demonstrates, BellSouth's**
5 **costs associated with the proposals will run into the millions of**
6 **dollars. While GTEFL has not done this kind of specific analysis, it**
7 **believes its costs for billing system and other modifications would be**
8 **of similar magnitude. These costs--and those of the IXCs--will**
9 **ultimately be passed on to consumers. If the Commission is to act in**
10 **the public interest in this case, it must balance these costs against**
11 **the potential benefits of the recommendations. In this regard, while**
12 **slamming has been a very prominent issue, the Commission should**
13 **keep in perspective the fact that the number of slamming complaints**
14 **as a percentage of total PIC changes is very small. In addition, as**
15 **noted, most slamming is caused by a few bad actors. It is unrealistic**
16 **to believe that slamming can be completely eradicated, and so it is**
17 **unreasonable to craft regulations based on this assumption. The**
18 **costs of such regulations will inevitably far exceed their benefits.**

19

20

21 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

22 **A. Yes, it does.**

23

24

25

1 Q (By Ms. Caswell) And, Mr. Scobie, can you
2 please give us a brief summary of your testimony?

3 A Yes, I will. Commissioners, when looking at
4 how best to deal with the problem of slamming, this
5 Commission must understand that the preponderance of
6 slamming is caused by a relatively small number of
7 carriers who willfully and repeatedly use
8 intentionally misleading and fraudulent marketing
9 techniques that result in unauthorized carrier
10 changes.

11 The most effective measure this Commission
12 can take from a competitive efficiency perspective is
13 to apply the substantial fines and revocation of
14 certification for those companies that willfully and
15 repeatedly utilize questionable techniques in
16 marketing their services. The removal of the
17 financial incentive to slam as well as the ability to
18 do business in Florida will send a strong message to
19 those companies they are not welcome in this state.

20 When looking for a solution to the slamming
21 problem, you should try keep in perspective the
22 magnitude of the problem you are facing. Only a very
23 small number of PIC changes result in a formal
24 slamming complaint.

25 In attempting to estimate the magnitude of

1 slamming in GTE Florida's territory, I have taken the
2 total number of PIC disputes that have occurred during
3 1996 and 1997 and compared those numbers to the total
4 number of PIC changes that have occurred during the
5 same period. The results show less than six-tenths of
6 1% of all PIC changes result in a PIC dispute. And
7 understand that that would be the maximum number,
8 because as we've heard in testimony of the IXCs as
9 well as others, LEC carriers, that all PIC disputes
10 are not necessarily slams, if defined as a willful and
11 fraudulent changing of a customer's carrier.

12 So when evaluating the proposed rule changes
13 beyond the strict enforcement of your existing rules
14 and the substantial financial penalties, be sure to
15 evaluate if your actions will decrease the potential
16 for slamming in a cost-effective manner.

17 I don't believe personally that PIC disputes
18 will ever be totally eliminated, but I do believe that
19 slamming, the willful and deceptively fraudulent
20 changing of a customer's presubscribed carrier, can be
21 substantially reduced by the structure you have
22 recently put in place coupled with consumer awareness
23 and information.

24 GTE Florida would support the additional
25 customer information to be provided on our bills if

1 the information is meaningful and can be accommodated
2 in a cost-effective manner. It is hoped that the rule
3 changes proposed would allow some measure of
4 flexibility in the placement of billing information
5 and the use of bill messages rather than bill inserts.

6 The placement of the carrier's certificate
7 number on the bill appears to be a costly systems
8 modification that would not add any appreciable
9 meaningful information to the consumer in dealing with
10 slamming.

11 GTE is taking steps to reduce complaints
12 related to carrier billing and subscription practices
13 of the carriers we bill and collect for. During the
14 last half of 1997 we began a program to benchmark
15 carriers against the complaint threshold. If a
16 carrier exceeds the threshold, they are put on notice
17 to take steps to reduce complaints below their
18 established threshold.

19 If complaints continue to exceed those
20 standards, GTE will have the option to terminate the
21 billing service with that carrier. In looking at the
22 early results, Florida total carrier complaints are
23 down 31% comparing the last half of 1997 to the last
24 half of 1996.

25 We also have 13 of the carriers that we bill

1 and collect for on termination notice in this program,
2 and if they don't get their complaints down below
3 their thresholds, their billing and collection
4 agreements will be terminated.

5 Finally, customer information and education
6 coupled with swift and significant penalties for
7 willful and fraudulent acts of carrier changing will
8 go the farthest in minimizing slamming.

9 This Commission has taken steps recently to
10 demonstrate to carriers that it is serious in dealing
11 with this problem. Further action should be evaluated
12 by weighing the additional reduction in unauthorized
13 PIC changes against the cost to the industry that will
14 eventually be passed on to the customers, the vast
15 majority of which are never slammed.

16 That concludes my summary.

17 MS. CASWELL: Thank you. Mr. Scobie is
18 available for cross-examination.

19 CHAIRMAN JOHNSON: Sprint?

20 CROSS EXAMINATION

21 BY MS. BARONE:

22 Q Good afternoon, Mr. Scobie. My name is
23 Monica Barone representing Sprint Communications
24 Company, Limited Partnership.

25 I just have a couple questions I'd like to

1 ask you about what happens when a customer calls in to
2 the business office disputing a PIC change. First I'd
3 like to know how does the customer service
4 representative identify the customer's current
5 provider?

6 A It's my understanding there are -- there is
7 a field in the customer screen that they will see
8 identifying their current PIC'd carrier.

9 Q Now, is that current PIC'd carrier the
10 underlying facilities-based carrier?

11 A I believe it's the carrier actually that
12 they are presubscribed to. I don't know if that
13 answers your question or not, but I think it is the
14 carrier that they're supposedly getting service from.

15 Q Another way to ask that is, can the customer
16 service representative determine whether a switchless
17 rebiller of the facilities-based carrier generated the
18 PIC change?

19 A I'm not sure if I know the answer to that
20 question.

21 Q Can your customer service representatives
22 determine whether the order was originally initiated
23 by GTE?

24 A Yes. There is a field again in the
25 customer's record that shows whether the PIC change

1 was either customer initiated, being a call to the --
2 our business office, or a carrier initiated PIC change
3 that would have come in mechanically through the CARE
4 system.

5 MS. BARONE: Madam Chairman, I would like to
6 ask if Mr. Scobie could provide a late-filed answer to
7 my question regarding whether the customer service
8 representative can determine whether a switchless
9 reseller of the facilities-based carrier generated the
10 PIC change.

11 CHAIRMAN JOHNSON: We'll identify that as a
12 late-filed. Would you give me a short title for that?

13 MS. BARONE: "Determination of actual
14 carrier." No, I think I'd rather state that another
15 way.

16 MS. CASWELL: You're just looking for
17 information as to whether when the screen comes up the
18 customer rep can tell if the switchless reseller
19 initiated the PIC change?

20 MS. BARONE: Yes. Yes. Whether the
21 customer service representative can determine whether
22 the switchless reseller initiated the PIC change.

23 MS. CASWELL: Okay. That's about as short
24 as it can be.

25 MS. BARONE: I don't know how to make it

1 shorter.

2 (Exhibit 11 marked for identification.)

3 CHAIRMAN JOHNSON: Anything else?

4 MS. BARONE: That's all I have. Thank you.

5 CHAIRMAN JOHNSON: Any other questions?

6 Mr. Beck?

7 CROSS EXAMINATION

8 BY MR. BECK:

9 Q Mr. Scobie, in your oral summary you
10 mentioned that you did a calculation of -- if I
11 understand, it's PIC disputes to total PIC changes for
12 1996, 1997?

13 A That's correct.

14 Q What were the total number of PIC disputes
15 for 1996 and 1997?

16 A I believe the number is approximately 19,000
17 for the two.

18 Q For each year?

19 A No; that was the total of the two years.

20 Q Oh. Okay. You just did one calculation
21 that had --

22 A Yeah, I did one calculation of both years.

23 Q And that's just in Florida?

24 A That's just in Florida, yes.

25 Q Does that just use PIC disputes that are

1 brought to the attention of GTE in the numerator of
2 that decimal?

3 A I'm sorry. I don't understand your
4 question.

5 Q For example, suppose a customer had a PIC
6 dispute but contacted the interexchange carrier.
7 Would that PIC dispute be in your -- counted as a PIC
8 dispute in the calculations you made?

9 A I don't believe it would. I think those are
10 the ones that have come through us directly.

11 Q And so if a PIC dispute went to an
12 interexchange carrier and they took care of it by just
13 changing the PIC, that would actually be in the
14 denominator of your calculation, would it not?

15 A Yes, I believe it would.

16 Q You attended the workshop held in
17 St. Petersburg, did you not?

18 A Yes, I did.

19 Q Did you also attend the one Tampa?

20 A No.

21 Q Do you recall at the St. Pete workshop that
22 there were some comments by customers regarding your
23 PIC freeze procedure?

24 A Yes, I do.

25 Q And you heard Mr. Hendrix describe Southern

1 Bell's just a few minutes ago, did you not?

2 A Yes, I did.

3 Q Could you describe how GTE's PIC freeze
4 procedure differs from that by Southern Bell?

5 A Yes, I will. I guess the main difference in
6 GTE Florida's PIC freeze, or PIC restriction
7 procedures, is that we -- when a customer were to call
8 in to our business office or our customer contact
9 center, requests a PIC restriction -- I'm sorry --
10 yeah, requests a PIC restriction, what the customer
11 rep would do would inform them that they will be sent
12 a form in next day's mail for them to fill out, sign,
13 and return to GTE.

14 The purpose of that, and the difference I
15 guess between us and BellSouth, is our concern, again,
16 for the -- by having a paper form that we also number
17 and track -- when it goes out we put a tracking number
18 on that form. We feel it minimizes the potential
19 fraud associated with a carrier that might want to
20 freeze a customer after they fraudulently slammed a
21 customer.

22 Q As a result of the testimony by customers,
23 is GTE considering any changes to that procedure?

24 A We are always looking to change and to
25 respond to customer input, but I don't know -- we're

1 going to weigh that against the potential for fraud
2 that may occur and having us in the middle of a
3 situation where a customer was fraudulently frozen or
4 had their PIC restricted. But, yes, we are looking at
5 potentially changing that.

6 Q Are you looking at changing it more like
7 Southern Bell, or to something different?

8 A Well, we're looking at perhaps using --
9 accepting faxes and accepting -- taking it over the
10 phone; yes, we're evaluating that at this present
11 time.

12 Q Do you think there should be uniform rules
13 promulgated by the Commission to establish one way for
14 all the LECs to do PIC freezes?

15 A Well, again, I think -- no, I don't
16 necessarily in this case, because I think the
17 individual company should have the ability to run its
18 business in a way it feels best meets the needs of
19 both itself and its customer base. I think if there's
20 a large amount of customer outcry, I think we would
21 respond to that. But, again, let me reiterate, I
22 think the potential for fraud here or -- that's what
23 we weigh against doing it in a paperless or over the
24 phone type mechanism.

25 Q And what fraud is it you're trying to

1 protect against?

2 A Well, as I understand it, what fraud we're
3 trying to protect against is, again, this small number
4 of carriers that are out there. I mean, what better
5 way to keep a customer, if I've just slammed a
6 customer, to phone in and freeze their PIC. And you
7 know who the customer is that you've slammed. You
8 know their telephone number. You know a lot of
9 information about them at that point in time.

10 Again, for those customers doing business
11 willfully and fraudulently, that's the way to do it.

12 Q Has GTE ever incurred a fraudulent PIC
13 freeze?

14 A I personally don't know of one, but I
15 haven't talked to everybody who deals with those on a
16 daily basis.

17 Q Have you ever heard of them in the industry?

18 A No, I have not.

19 Q Could you turn to your testimony at Page 8
20 starting at Line 6? To paraphrase your testimony,
21 there you say that your current billing system can't
22 perform having inserts when customers change their --

23 A It's my understanding the current system in
24 providing inserts can't pick an individual telephone
25 number to put an insert in. We do bill inserts either

1 by central office or NXX code or class of service,
2 like business, residence, or something like that.

3 Q Could you do it on a separate page of the
4 bill itself?

5 A Yeah, I think we could provide a bill
6 message, per se, on a bill, yes.

7 Q Could you do it in very large type?

8 MS. CASWELL: Can you define very large-

9 MR. BECK: 36 --

10 WITNESS SCOBIE: Well, given the spacing and
11 requirements of the bill, I think there could be some
12 bolder type, but I'm not -- I don't have all the
13 capabilities of the billing type mechanisms.

14 MR. BECK: Thank you, Mr. Scobie. That's
15 all I have.

16 CHAIRMAN JOHNSON: Staff?

17 MS. CALDWELL: Thank you.

18 CROSS EXAMINATION

19 BY MS. CALDWELL:

20 Q I'm Diana Caldwell. When your customer
21 service representative gets a call from a customer
22 claiming they've been slammed, how does your company
23 handle that complaint from that point forward?

24 A We change the customer back to the carrier
25 they say they want to be connected to.

1 by central office or NXX code or class of service,
2 like business, residence, or something like that.

3 Q Could you do it on a separate page of the
4 bill itself?

5 A Yeah, I think we could provide a bill
6 message, per se, on a bill, yes.

7 Q Could you do it in very large type?

8 MS. CASWELL: Can you define very large-

9 MR. BECK: 36 --

10 WITNESS SCOBIE: Well, given the spacing and
11 requirements of the bill, I think there could be some
12 bolder type, but I'm not -- I don't have all the
13 capabilities of the billing type mechanisms.

14 MR. BECK: Thank you, Mr. Scobie. That's
15 all I have.

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17 MS. CALDWELL: Thank you.

18 CROSS EXAMINATION

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21 service representative gets a call from a customer
22 claiming they've been slammed, how does your company
23 handle that complaint from that point forward?

24 A We change the customer back to the carrier
25 they say they want to be connected to.

1 Q Do you give them any other options? Do you
2 explain that a PIC freeze is available? I mean, do
3 you volunteer that information, or do they have to
4 request it?

5 A We do at that time. If they say they have
6 an unauthorized PIC change and we change them back,
7 and we do at that time inform them of the PIC
8 restriction option.

9 Q Okay. You were stating back on Page 8 of
10 your testimony that you didn't have the -- your system
11 could not perform a function of bill inserts. Does
12 that mean that you don't object to messages somewhere
13 in the bill?

14 A That's correct; we would not object to a
15 bill message if we could use that as a proxy.

16 Q And, again, back on the certificate number
17 on the first or second page as required in the rule,
18 are you agreeing, then, that you wouldn't mind putting
19 it someplace else on the bill?

20 A Well, again, the certificate number poses, I
21 think, a number of other problems, and that's how the
22 certificate number will come to the billing carrier,
23 how we will get it. We don't have a mechanism, or
24 it's not in our systems anywhere today -- in our data
25 bases, I don't think, anywhere today.

1 So I think there would be a systems
2 modification problem to get the certificate number
3 just to put it on the bill. But as far as where we
4 put it, you know, if it -- there or delivered, it
5 could be put on the bill somewhere.

6 Q Okay. Do you have a database that has the
7 certificate numbers anywhere?

8 A No, we do not. And in some cases, let's say
9 we would be billing for -- or the carrier that we
10 would be billing for may be the underlying
11 facility-based carrier. That's who we are providing
12 service to out of our tariff. Now, if they have a
13 reseller that they are providing service to, we don't
14 have that certificate number of that reseller.

15 Q Is it possible for a GTE system then, or
16 because of GTE's system, for you to sell or to bill
17 for an uncertificated carrier?

18 A Well, again, we are billing -- our
19 agreements are for that carrier of the underlying
20 carrier. So in that case we're not billing for an
21 uncertificated carrier per se, because we -- again,
22 let's -- for an example, we would be billing for,
23 let's say, an AT&T, that's who we're billing for; and
24 who they are providing services to we don't know, or
25 we don't have any indication of that.

1 So, again, we're providing service to a
2 certificated carrier in this case. In the example, it
3 would be AT&T or the underlying facility-based
4 carrier.

5 Q So you do believe it would be possible that
6 under the current rules a local exchange company could
7 bill for an uncertificated carrier?

8 A Again, I guess you'd have to define bill for
9 an uncertificated carrier because, again, we are
10 billing providing our services to AT&T or the
11 underlying carrier. That's who our billing and
12 collection agreement and arrangements are with.

13 Q Would it ever be possible for the name of an
14 uncertificated company to appear on the bill?

15 A I don't believe so under the current system
16 because, again, we would be billing for the underlying
17 carrier, which appears in our case we would validate
18 that they were a certificated carrier.

19 Q If it's a requirement to print the
20 certificate number on the bill, in your opinion, would
21 that prevent any uncertificated company from billing a
22 customer?

23 A It depends on what certificate number you're
24 going to require to be printed on the bill. Again, we
25 will be billing for the -- we will be providing

1 services to the underlying carrier. Again, in the
2 example it would be AT&T or an MCI or something like
3 that.

4 Q Do you agree that customers should be able
5 to tell who the LEC is billing or collecting for?

6 A Yes, I would agree with that.

7 Q Do you agree that if a customer doesn't know
8 who it's being billed by, that it could be confusing
9 to that customer?

10 A Yes, I would agree with that.

11 Q And do you believe that it would be
12 desirable for the customer to have that billing
13 information?

14 A Yes, I do.

15 Q Would you please explain what the threshold
16 is that you have described in your summary and how it
17 would be determined, the threshold of how many
18 slamming complaints?

19 A Okay. Of the program that GTE has put in
20 place last year?

21 Q Right.

22 A Right. As I understand it, the way it was
23 explained to me is that all of the companies that we
24 bill and collect for we try to look at the number of
25 billing complaints on a 100,000 bill rendered basis.

1 So we look at a ratio of total billing complaints to
2 the total bills rendered. And I think the objective
3 nationwide for GTE for this program is like two
4 complaints, two billing complaints per 100,000 bills
5 rendered, and that's what we're trying to get the
6 carriers that we bill and collect for down to that
7 level.

8 Q Do you classify these complaints as to --
9 let's say, if somebody had an outright fraudulent --
10 you know, a forged LOA as we've seen. Do you think
11 that there's a level of forged LOAs that would be
12 acceptable, and are you taking those into
13 consideration in your plan?

14 A As I understand it, they do not categorize
15 or stratify the threshold itself. It is total billing
16 complaints. It would include slamming and all of
17 those types of things.

18 Any complaint that a customer had for an IXC
19 or anyone that we bill and collect for, if there's a
20 complaint, it would including slamming, it would
21 include fraudulent LOAs and everything else; but the
22 threshold itself hasn't been stratified to acceptable
23 levels of each strata. It's just a total threshold
24 that we're trying to get the carriers down below.

25 Q Do you think it ought to?

1 A Well, again, I think the number is, in most
2 cases, relatively low for the carriers we bill and
3 collect for. I don't know that you'd have to -- that
4 finally cut the strata of the complaints.

5 I think, you know, if the complaints don't
6 come down, I think maybe the people that are working
7 on this will. But I think the complaints are coming
8 down, and it's going to take the fraudulent or the
9 slamming complaints along with them. I think it has
10 so far.

11 Q Do you think it would be prudent to possibly
12 take the complaints that are fraudulent that have just
13 outright forgeries, do you think you ought to report
14 those to the Commission or someone else and let them
15 take further action?

16 A That's perhaps a possibility. Again, I
17 don't know the nature, again, and I'm not an attorney.
18 But as far as the billing and collection agreements,
19 the contractual nature of those agreements, I'm not
20 sure of the language in those agreements that would
21 allow or not allow that to happen.

22 Q Are you aware, or do you know how many
23 carriers are above the threshold today?

24 A Well, I think I stated in my summary I think
25 there are approximately 13 that I'm aware of that are

1 on notice that if they don't get down below the
2 threshold, that their B and C contracts will be
3 terminated.

4 MS. CALDWELL: That's all I have. Thank
5 you.

6 COMMISSIONER GARCIA: Tell me what the
7 actual threshold --

8 WITNESS SCOBIE: You mean the definition of
9 the threshold --

10 COMMISSIONER GARCIA: Yeah.

11 WITNESS SCOBIE: The threshold is the total
12 number of billing complaints for carriers that we have
13 billing and collection agreements for, and that's --
14 and where the threshold was defined was, looking at
15 the individual carrier, they've set a criteria of so
16 many complaints per hundred thousand bills rendered
17 under our billing and collection agreement.

18 I think the over -- I don't know
19 individually what the individual carriers' thresholds
20 are, but it averages out to approximately two
21 complaints per hundred thousand bills rendered
22 nationwide for GTE billing and collection.

23 COMMISSIONER GARCIA: You don't think that
24 might cause problems later on, competitive issues that
25 you're the one determining that? Let's say a company

1 called Supra Communications was working in your part
2 of the state, and they are providing long distance as
3 well as local service, and they run into your
4 threshold, and you start -- you discontinue billing
5 for them. You would all but shut a company like
6 that -- if they didn't have a -- they didn't have your
7 services for billing.

8 **WITNESS SCOBIE:** Well, again, I think the
9 problem we're trying to attack here is those issues
10 where customers are complaining about any number of
11 things, including slamming or billing rates or
12 whatever, billing plans.

13 **COMMISSIONER GARCIA:** Right. Right.

14 **WITNESS SCOBIE:** And, again, in our
15 contractual arrangements, our contractual billing and
16 collection arrangements that is in there up front.
17 They know going in with their eyes open what those
18 requirements are. They don't have to execute those
19 agreements going in.

20 **COMMISSIONER GARCIA:** I understand.

21 **CHAIRMAN JOHNSON:** Any other questions,
22 Commissioners? Redirect?

23 **REDIRECT EXAMINATION**

24 **BY MS. CASWELL:**

25 **Q** I have a few questions. Mr. Scobie, aside

1 from the systems modifications that you talked about
2 with regard to printing the certificate number on the
3 bill, do you see any other drawbacks with that
4 proposal?

5 A The printing of the certificates on the --

6 Q Yeah, aside from the systems modifications.

7 A Well, the only drawback I can see is
8 perhaps -- I mean, for the customer, I'm not sure the
9 certificate means a whole lot, or it means anything to
10 a particular customer.

11 Q Do you think if having the certificate
12 number is an important thing, that that information
13 could reside elsewhere? In other words, it wouldn't
14 have to be on the bill, but rather collected by the
15 IXCs and the LECs?

16 A Yeah, I believe certainly the LECs would
17 have it for those carriers that we bill and collect
18 for, and I think the IXCs would have it for those that
19 they provide services to on a resold basis.

20 Q And do you think that this Commission could
21 direct the LECs and IXCs to gather that information?

22 A I believe they could.

23 Q On GTE's bills today can a customer tell
24 where particular charges are coming from in terms of
25 the carrier name and the carrier's contact phone

1 number? Are those items on the bill already?

2 A Yes, they are.

3 Q My last question concerns some of the things
4 that Mr. Poucher raised. I think there was some
5 confusion perhaps about GTE's practices in this area.

6 Can you tell me if it's GTE's policy to
7 disconnect service when there's a dispute about
8 charges on the bill including perhaps charges related
9 to slamming?

10 A No, it is not our policy to disconnect. If
11 the customer calls in and informs the contact person
12 that there is a disputed charge, the practice is for
13 the contact person that they are talking to to note
14 that those charges are in dispute, they don't have to
15 be paid; and the practice is that they -- there's a
16 notation in the record that those are not a treatable
17 amount. And by treatable amount, it is that we're not
18 sending disconnect notices because of that amount in
19 dispute.

20 MS. CASWELL: That's all I have. Thank you.

21 CHAIRMAN JOHNSON: There were no exhibits,
22 just the one late-filed.

23 You're excused Mr. Scobie. I think we'll
24 take a ten-minute break.

25 (Brief recess.)

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(Transcript continues in sequence in
Volume 4.)