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BEFORE THE

FLORIDA PUBLIC SERVICE COMMISSION

In The Matter of	:	DOCKET NO. 910060-TP
Petition of the Attorney	:	<u>HEARING</u>
General and the Public	:	
Counsel to Adopt Rules	:	
Governing 900 services.	:	

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FPSC, Hearing Room 122
101 East Gaines Street
Tallahassee, Florida

AUG 5 1991

Wednesday, July 31, 1991

Florida Public Service Commission

Met pursuant to notice at 9:30 a.m.

BEFORE: DAVID SMITH
Hearing Officer

APPEARANCES:

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1 APPEARANCES CONTINUED:

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8 101 East Gaines Street, Tallahassee, Florida 32399,
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10 Commission Staff.

11

12

13 ALSO PRESENT:

14

STEVEN BROWN, FPSC, Division of
Communications.

15

16

DAN HOPPE, FPSC, Division of Research.

17

18

19 REPORTED BY:

CAROL CAUSSEUX, CSR, RPR
JOY KELLY, CSR, RPR
Official Commission Reporters

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24
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I N D E X

PRESENTATIONS BY:

PAGE NO.

STEVE BROWN

10

DAN HOPPE

12

DEBRA WINEGARD

17

BETH HARBER

28

WITNESSES

NAME:

MICHAEL NELSON

Direct Statement

57

Cross Examination by Mr. Twomey

59

Cross Examination by Mr. Tye

64

Recross Examination by Mr. Twomey

68

BEVERLY MENARD

Direct Statement

69

Cross Examination by Mr. Twomey

70

BEN POAG

Direct Examination by Mr. Berg

79

Cross Examination by Mr. Twomey

83

Cross Examination by Mr. McLean

87

1 Index Continued:

2

EXHIBITS

3

Number:

Identified Admitted

4

1	(Staff) the petition to		
5	initiate rulemaking by the		
6	Office of Public Counsel		
7	and the Attorney General;		
8	the order noticing rule-		
9	making; the FAW notice and		
10	the materials that were sent		
11	to JAPC; economic impact		
12	statement and the various		
13	comments and requests for		
14	hearings that were filed		
15	in the dockets.	10	
16			
17	2 (Company) Written Comments		
18	of Indiantown Telephone System	33	33
19			
20	CERTIFICATE OF REPORTER		96
21			
22			
23			
24			
25			

14

15

16

17

18

19

20

21

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P R O C E E D I N G S

(Hearing convened at 9:30 a.m.)

MR. SMITH: If we could then, I'll go ahead and begin.

My name is David Smith. I'm the director of the Commission's Division of Appeals. I'll be acting as Hearing Officer in this proceeding.

This is a hearing in Docket No. 910060-TP, concerning the amendment of Rule 4.110, or I should say 25-4.110, Florida Administrative Code, pertaining to customer billing.

Notice of the proposed rule amendment and of this hearing was published in the May 10th, 1991, edition of the Florida Administrative Weekly.

In response to that notice published on May 10th, requests for hearing by filed by United Telephone Company of Florida, GTE Florida, Incorporated and Sprint Gateways. Written comments on the proposed rule were filed by Southern Bell Telephone and Telegraph Company and by AT&T Communications of the Southern States.

And at this point, I would like to make it clear that this hearing concerns only those amendments to Sections (1)(a)1 of the rule that were proposed on May 10th. It has nothing to do with any further

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And at this point, I would like to make it clear that this hearing concerns only those amendments to sections (1)(a)1 of the rule that were proposed on May 10th. It has nothing to do with any further proposed

1 amendments to the rule which will occur at some later
2 time in so-called Phase II of this rulemaking.

3 This is an informal hearing under Section
4 120-54, Florida Statutes. We will dispense with the
5 swearing of the witnesses. Anyone wishing to make a
6 statement or present written evidence is free to do so
7 and anyone may ask questions of anyone making a
8 presentation.

9 At this time I would like to take appearances
10 of those persons who are represented here.

11 MR. BROWN: Start with me?

12 MR. SMITH: Why don't we start with the
13 attorneys?

14 MS. PEED: Mary Jo Peed with Southern Bell
15 Telephone.

16 MS. HARBER: Beth Harber with Southern Bell
17 Telephone.

18 MS. WINEGARD: Debra Winegard, AT&T,

19 MR. TYE: Michael W. Tye, AT&T.

20 MR. SELF: Floyd Self, US Telecom d/b/a
21 Sprint Gateways.

22 MR. TWOMEY: I'm Mike Twomey, Office of the
23 Attorney General.

24 MS. CASWELL: I'm Kim Caswell, GTE Florida.

25 MS. MENARD: Beverly Menard, GTE Florida.

1 MR. ERWIN: David Erwin for Indiantown
2 Telephone System.

3 MR. BERG: Alan Berg, United Telephone
4 Company of Florida.

5 MR. POAG: Ben Poag, United Telephone Company
6 of Florida.

7 MR. SMITH: Anyone else in the back there?

8 MR. McLEAN: Harold McLean, Office of Public
9 Counsel.

10 MR. SMITH: Okay, Harold.

11 MR. BELLAK: Richard Bellak, representing
12 Commission Staff.

13 MR. SMITH: Okay. And one more? Okay.

14 MS. JOHNSON: Beth Johnson representing the
15 Florida Department of Commerce.

16 MR. SMITH: I sent you all a memo, or at
17 least all persons listed on the Clerk's docket sheet,
18 on June 11th. And I asked for additional issues that
19 you might wish to raise in this hearing, and I have
20 received no responses to that. So I assume we're
21 going, basically, with the comments and requests for
22 hearing that we had.

23 That being the case, this hearing will be of
24 a rather limited scope, and I believe it would be best
25 if we just allowed each individual making a

1 presentation to cover all the issues that they wish to
2 raise and respond to questions on those as we go along.

3 First, I might ask, how many of you are
4 presenting a witness? Okay. Three. Okay.

5 I would propose to proceed as follows: The
6 Staff will make a presentation on the rule, the EIS,
7 after which I would like to hear from persons who
8 simply wish to make a statement or present some written
9 evidence, and then go to people who have a witness and
10 will make longer presentations. Is that acceptable to
11 everyone? Okay. With that why don't we begin with the
12 Staff.

13 MR. BELLAK: Mr. Steve Brown of the Staff will
14 address the forum initially as to comments about the rule
15 and the Staff's analysis, in response to comments followed
16 by Dan Hoppe on the subject of the EIS.

17 MR. SMITH: Okay.

18 MR. BROWN: We're also going to put in an
19 exhibit that basically has all the information that you
20 had earlier stated, as far as the notice.

21 MR. SMITH: Okay. As we usually do in these
22 proceedings, the Staff has prepared an exhibit which
23 consists of the rule itself; the petition to initiate
24 rulemaking by the Office of Public Counsel and the
25 Attorney General; the order noticing rulemaking; the

1 FAW notice and the materials that were sent to JAPC;
2 the economic impact statement and the various comments
3 and requests for hearings that were filed in the
4 dockets. Those of you who simply file comments, it
5 won't be necessary to reintroduce them. They will be
6 in this exhibit.

7 At this time I'll identify that as Exhibit
8 No. 1.

9 (Exhibit No. 1 marked for identification.)

10 MR. SMITH: Okay, Mr. Brown.

11 MR. BROWN: My name is Steve Brown. I'm
12 representing Staff here today. We're here to discuss
13 the Attorney General's and Public Counsel's petition,
14 the first phase of the adoption of 900 and 976 rules.

15 The Commission approved the petition and
16 initiated rulemaking and bifurcated the rules into two
17 separate phases. This process is Phase I. The portion
18 of the rule that we're discussing today is very
19 limited. This proposed rule only addresses three areas
20 in relation to 900 and 976 rules.

21 Staff, basically, believes that this phase
22 addresses mostly notification to customers by the local
23 exchange companies and the interexchange companies of
24 current Florida Public Service Commission policy.

25 A summary of the rule includes that,

1 basically, 900 and 976 charges shall be separately
2 stated and segregated from all other charges on a bill.

3 The Staff does have one change it would like
4 to make in the proposed rule in the reading.

5 Currently, if you will turn to the rule, in the first
6 paragraph, Section A, the fourth sentence that reads,
7 "Currently, the following information shall be clearly
8 and conspicuously disclosed on each page of the bill
9 containing 900 or 976 service charges."

10 Staff would like to change that to read as
11 follows: "The following shall be clearly and
12 conspicuously disclosed on the section of the bill
13 containing 900 or 976 charges."

14 MR. SMITH: Could you say where that is
15 again, I'm not quite following.

16 MR. BROWN: Section A --

17 MR. SMITH: Section A.

18 MR. BROWN: -- line 4, currently reads "The
19 following information shall be clearly and
20 conspicuously disclosed."

21 MR. SMITH: Okay, and right --

22 MR. BROWN: I'll read on the section of the
23 bill instead of on each page of the bill.

24 MR. SMITH: Okay. On the section of the bill
25 containing -- okay.

1 MR. BROWN: Staff's rule also includes that
2 statements of nonpayment of 976 or 900 service charges
3 will not result in discontinuance of service and
4 customers can obtain blocking of 900 and 976 charges.

5 That is Staff's presentation.

6 MR. SMITH: Are you making a change to the
7 second part of --

8 MR. BROWN: No.

9 MR. SMITH: Okay. Thank you.

10 MR. BROWN: -- that's just the summary of
11 what it states.

12 MR. McLEAN: Point of clarification: is he
13 making a change?

14 MR. SMITH: No. He's proposing a change.
15 Nobody can make a change at this hearing until the
16 Commission votes on the final version of the rule,
17 which I will recommend to them. Okay, Mr. Hoppe.

18 MR. HOPPE: My name is Dan Hoppe and I'm with
19 the Division of Research at the Florida Public Service
20 Commission.

21 I'm here today to address the concerns that
22 were in the petition filed by United Telephone
23 regarding two items on the economic impact statement.
24 And I'll be as brief as possible on this. And if there
25 are any other questions about the economic impact

1 statement today, I would be glad to answer those
2 questions for you.

3 First of all, on United's petition, Item 4-B,
4 United states that "The economic impact statement
5 contained in the FCC Order 24477 at Page 3 describes
6 900/976 services as nonregulated." United's 976
7 services is a regulated tariff service.

8 I went back through the economic impact
9 statement very carefully, and there isn't any statement
10 in the economic impact statement itself regarding
11 United not having this service being regulated or
12 tarified. In fact, there's numerous occasions in the
13 EIS where we reference the fact that the IPs will still
14 have to absorb billing and collection and transport
15 charges associated with noncollectible charges. So we
16 are addressing the fact that it is tarified in the EIS.

17 I think where United had picked up the fact
18 we're saying it's nonregulated is in the order itself,
19 24477. And it's a summary paragraph that's at the end
20 of -- it's on Page 3, approximately Line 3 or 4 and
21 it's at the end of the section on the economic impact
22 statement. It has really virtually nothing to do with
23 the economic impact itself, and it states "It was
24 concluded that the need to protect consumers from being
25 taken advantage of and to ensure that the general body

1 of ratepayers is not economically effected by a
2 provision of nonregulated 900/976 services outweigh the
3 increased cost associated with implementation of the
4 proposed rule changes."

5 MR. SMITH: Mr. Hoppe, could we clarify
6 something? What is tariffed is your provision of the
7 line to the 976; nobody ever said that 976 providers
8 are regulated. That's the distinction you're making,
9 isn't it?

10 MR. HOPPE: In trying to speak to this
11 particular sentence here, this was not part -- again,
12 this was not part of EIS. This was a summary
13 conclusion of what implications the amendments might
14 have. All this does is take the costs that were
15 identified in EIS and say that we've considered them
16 but they did not outweigh the amendments to the rule.
17 And in looking at the amendments to the rule, Section
18 A, it does state in there "900 or 976 nonregulated
19 charges." We're assuming, then, that there is a
20 nonregulated service there that the nonregulated
21 charges are related to and that's, of course, to the
22 customer.

23 The second item that United brought up was on
24 the next page. Let's see, still Section 4-B, they
25 state "Long-term recovery from information providers

1 and their customers as is suggested by the economic
2 impact statement is speculative at best."

3 Well, in writing that that is part of the
4 economic impact statement and including that in the
5 economic impact statement I guess we're looking at the
6 broader picture that if they had come in for a rate
7 case, these costs would eventually be included in the
8 cost of service.

9 In addition, it's my understanding that costs
10 like this can be handled in cost-based tariff revision
11 filings with the Commission. And on a short-term basis
12 they could even come in with a tariff revision and
13 recover some of these costs.

14 I believe those are the two items that they
15 addressed in their petition, and I just wanted to
16 clarify so that it wasn't misunderstood what we were
17 trying to say.

18 MR. SMITH: Okay. I'll open the floor to
19 questions, but I'd like to go in order so we don't have
20 chaos in questioning back and forth, so why don't we
21 just go down the line.

22 MR. PEED: No questions.

23 MS. HARBER: No questions.

24 MR. SELF: No questions.

25 MR. TWOMEY: Mr. Hoppe, I want to be clear.

1 It's my understanding that the services in question
2 affected by the rule, the 900/976 services, billing
3 services provided by the LECs are, in fact, all
4 unregulated. Now, is my understanding correct? Is
5 that the -- what I understand from your statement this
6 morning?

7 MR. HOPPE: The charges themselves are
8 tarified to the -- the charge that's not regulated is
9 to the customer, the charge to the customer on the
10 bill. As is stated in the rule, that it is -- that's
11 the nonregulated charge we're talking about.

12 No, the billing and collecting and if there
13 is any transport charges or whatever the terminology is
14 on that, those are tarified items.

15 MR. TWOMEY: Okay. But the charges to the
16 customers are not regulated.

17 MR. HOPPE: Right. By the PSC.

18 MS. CASWELL: No questions.

19 MR. SMITH: Anyone else?

20 MR. BERG: It was our petition. We thank
21 Mr. Hoppe for his explanation. That cleared it up for
22 us.

23 MR. SMITH: You're satisfied. Good.

24 At this point, is there anyone who would like
25 to make a statement about the rule, support or against?

1 Yes.

2 MS. WINEGARD: My name is Deborah Winegard.
3 I'm here on behalf of AT&T.

4 AT&T supports FCC and Florida policies which
5 prohibit disconnection of local service for failure to
6 pay or dispute of 900 charges. We also support efforts
7 to educate consumers regarding their rights and
8 obligations with respect to 900 services.

9 The rule as originally proposed by the
10 Commission, however, we believe would result in
11 significant increases in failure of consumers to pay
12 charges which are legitimately due because that rule
13 would require the statement that "Failure to pay will
14 not result in disconnection" on each and every page of
15 the bill. We also think that there will be increased
16 costs with respect to billing and we sympathize with
17 the local exchange companies with respect to that.

18 We do, however, support the Staff's change.
19 We think segregation of the charges and an indication
20 in that section of the bill that failure to pay will
21 not result in disconnection of local service would give
22 the consumers sufficient notification of their rights
23 with respect to 900 services and would remedy our
24 problems with the rules proposed by the Commission.

25 Thank you.

1 MR. SMITH: Thank you. Any questions of
2 Ms. Winegard?

3 MR. McLEAN: Yes. What language invites the
4 consumer not to pay the bill, I didn't catch that.

5 MS. WINEGARD: If I could turn to the
6 proposed rule, as originally promulgated by the
7 Commission, it says --

8 MR. SMITH: Just for clarification that is
9 the way it is promulgated at this point.

10 MS. WINEGARD: Exactly. "The following
11 information clearly and conspicuously disclosed on each
12 page of the bill containing pay-per-call service." And
13 there is a colon and it says at Line 1, "Nonpayment of
14 pay-per-call service, 900 or 976 charges will not
15 result in disconnection of local service."

16 And we believe that reiterating that
17 particular sentence on each and every page on which 900
18 charges appear would result in consumers believing that
19 they had no obligations to pay those charges when they
20 are legitimately due. And we do think that the Staff's
21 proposed change, which would include that same sentence
22 in a specific section of the bill, would be sufficient
23 to inform consumers.

24 MR. SMITH: Thank you. Yes.

25 MR. BERG: When she read from the proposed

1 rule, is the rule that's in force now, you used
2 pay-per-call instead of 900/976 which is in the rule
3 language in front of me.

4 MS. WINEGARD: I apologize for that. I was
5 reading from the version provided by the Staff and
6 you're right, the pay-per-call is not in the rule.

7 MR. BROWN: That's in Phase II --

8 MS. WINEGARD: Exactly.

9 MR. BERG: The pay-per-call will be in Phase II.

10 MR. SMITH: Okay. Good. Wait a minute.

11 Hold on.

12 MR. McLEAN: I have a follow-up.

13 MR. SMITH: Okay. Go ahead now.

14 MR. McLEAN: It's AT&T's position that
15 consumers who are told that the phone won't be
16 connected -- disconnected if they don't pay the bill
17 are thereby invited not to pay. Does that presume a
18 preexisting sort of bias on the part of the consumers
19 not to pay bills which they're otherwise obligated?
20 Is that AT&T's position?

21 MS. WINEGARD: I think you've mischaracterized
22 what I have said.

23 AT&T's position is that consumers do need to
24 be advised of their rights and obligations with respect
25 to 900 services. And, obviously, one of those rights

1 is the right to continue to have local telephone
2 service while they are disputing on refusing to pay 900
3 charges. And for that reason, we do support notifying
4 the consumers of that right in a specific section of
5 the bill or in the white pages.

6 However, we believe repeating it on each and
7 every page of the bill could result in consumers
8 believing that they don't have the obligation to pay
9 those charges when they are legitimately due.

10 MR. McLEAN: But you don't have any objection
11 to repeating it one time a month or 12 times a year,
12 you're not begging for a new invitation not to pay?

13 MS. WINEGARD: We would prefer that
14 notification just be sent on a regular basis, but if
15 900 charges appear in bills each and every month, we
16 would have no problem that.

17 MR. SMITH: All right, Mike.

18 MR. TWOMEY: Ms. Winegard, would you agree or
19 do you recognize that under the Commission's current
20 rules that LECs are prohibited from disconnecting a
21 customer's local service for, among other things,
22 failure to pay for a service rendered by a utility
23 which is not regulated by the Commission. You
24 recognize that.

25 MS. WINEGARD: We recognize that and it's

1 also FCC policy as well.

2 MR. TWOMEY: Okay. So would you recognize as
3 well, because a minute ago you used the word "while a
4 customer is disputing a 900 bill." Would you agree
5 with me that a customer is entitled to continued local
6 service as long as they pay their regulated charges
7 irrespective of whether they pay their 900 charges or
8 not, whether they're legitimately owed or they have a
9 judgment against them?

10 MS. WINEGARD: Absolutely. And I believe I
11 said for either failure to pay or dispute of 900.

12 MR. TWOMEY: Okay. I'm sorry if I
13 misunderstood you.

14 So you agree that they have a right not to
15 have their service disconnected. Your concern, if I
16 understand it from your oral presentation and your
17 written comments, is that too much awareness of the
18 rule will provoke them to some level of dishonesty?

19 MS. WINEGARD: I just think it may mislead
20 them. I don't think consumers are dishonest, but it
21 may mislead them into believing they don't have to pay
22 those charges.

23 MR. TWOMEY: How would you -- if you're
24 willing to agree that they have a right to know this
25 information, could you suggest a manner in which the

1 rule could be rewritten, or that notification could be
2 rewritten on the bill itself where the 900 charges are
3 indicated, that would satisfy -- that would make it
4 clear that it's not an invitation not to pay
5 legitimately owing bills, but that it would also make
6 the customers fully and adequately aware of their
7 rights; not to lose local service for failure to pay
8 those?

9 MS. WINEGARD: Well, as I've previously
10 indicated, we do support the Staff's proposed change
11 which would include that language in a specific section
12 of the bill. And we would also support inclusion of
13 that in the white pages of the telephone directory,
14 which do provide information to consumers.

15 MR. TWOMEY: Good. So the language
16 recommended by the Staff is sufficient to satisfy you.

17 MS. WINEGARD: We're not recommending any
18 changes in the language in the rule as proposed or as
19 promulgated by the Commission. What we are recommending
20 is that language be placed in one section of the bill as
21 opposed to on each and every page.

22 MR. TWOMEY: Right. Because as I read it,
23 you say, "Accordingly, AT&T submits that the proposed
24 rule should be modified by striking the requirement
25 that specific information be printed on each page of

1 the customer's bill and substituting a requirement that
 2 local exchange companies notify customers of their
 3 rights and obligations with respect to 900 services and
 4 periodic bill inserts and/or," not necessarily both of
 5 them, "in the white pages of the telephone
 6 directories."

7 Now, if I may, with regard to that, how often
 8 would these periodic notifications be in the billing
 9 services?

10 MS. WINEGARD: We would leave that to the
 11 discretion of the Commission. They might want to do it
 12 annually; they might want to do it quarterly. But that
 13 would really be within the Commission's discretion.

14 MR. TWOMEY: Would you agree that probably
 15 not everyone reads the bill inserts?

16 MS. WINEGARD: I suspect that's true.

17 MR. TWOMEY: Okay. Where in the white pages
 18 of the telephone directory would you suggest placing
 19 this notification?

20 MS. WINEGARD: In the informational section
 21 which informs consumers about telephone services. I
 22 have not specifically looked at the Florida directory
 23 to tell you which page they use.

24 MR. TWOMEY: Have you personally ever looked
 25 at your phone book, the white pages specifically?

11 He, I don't think consumers do look at the
12 white pages of the telephone directory or the yellow
13 pages, for that matter. While they are paying their
14 bill. If however they do glance through the
15 ~~white pages~~ directory and look at the ~~bill~~
16 ~~pages~~ ~~to~~ ~~understand~~ ~~that~~ they do so that they
17 ~~know~~ ~~it~~ ~~is~~ ~~important~~ it's not
18 important that they have it in front of them at that
19 moment.

20 It's important that they know their rights
21 and obligations. And we think that consumer education
22 efforts underway by AT&T and the other companies,
23 providing the information in the section of the bill
24 and in the white pages together would allow consumers
25 to have sufficient information. So that when they saw

1 the charge on the bill, they would say, "Wait a second.
2 Either I didn't make that charge or the transmission
3 was faulty," or whatever the problem was with that
4 call, they would know that they could dispute that
5 charge, not pay that charge, or take some action with
6 respect to that charge and not have their local service
7 put in jeopardy. So regardless of whether they are
8 looking at the white pages at the same time they pay
9 the bill is not important. What is important is that
10 the consumer have that information, and know it; have
11 it in their mind when they do pay the bill.

12 MR. TWOMEY: Exactly. And if they are aware
13 of that information, if they are aware of their rights
14 from reading the white pages and/or periodic notices,
15 isn't there the same danger? Isn't there the same
16 danger that you fear that if they are aware of their
17 rights, they will fail to pay legitimately owing calls.

18 MS. WINEGARD: I don't believe so.

19 MR. TWOMEY: Okay. Lastly, would you agree
20 with me that a right that a person is unaware of is
21 basically no right at all?

22 MS. WINEGARD: And that's why I think it is
23 important that consumers do know their rights and
24 obligations with respect to 900 services.

25 MR. TWOMEY: Okay. Thanks.

1 MR. SMITH: Let me ask a question here.
2 Several people have said if you put it on every bill,
3 people are not going to pay their bill or more people
4 won't. I'd like to know if anybody has done any
5 psychological studies to base that opinion on or is
6 this a little bit of homespun psychology here from AT&T
7 and the rest of you?

8 MS. WINEGARD: I think it's intuitive.

9 MR. SMITH: Yeah, okay. Mr. Erwin.

10 MR. ERWIN: Can I just can a couple of
11 questions?

12 If Mr. Smith were to say to you after each
13 sentence of your statement here that you were not under
14 oath, that you were not sworn, would you at some point
15 get the idea that maybe it didn't matter whether you
16 told the truth or not?

17 MS. WINEGARD: I might get that idea.
18 Luckily I'm an attorney so I do try to tell the truth.

19 MR. ERWIN: And likewise, if they told you
20 after every line on your bill or every page that you
21 didn't have to pay this in order to keep your local
22 telephone service, wouldn't you get the idea that you
23 didn't have to pay the bill?

24 MS. WINEGARD: Sure.

25 MR. ERWIN: That's all I have. Thank you.

1 MR. SMITH: Okay. Anyone else wishing to
2 make a statement?

3 MS. HARBER: I'm Beth Harber with Southern
4 Bell. And before I make a statement, if you could
5 clarify what you meant with the Staff proposal, I have
6 a question for Steve.

7 MR. SMITH: Are you going to be the witness
8 or are you just going to make a statement.

9 MS. HARBER: Make a statement for Southern
10 Bell.

11 Steve, you all's proposal that you would put
12 the 9, you know, the disclosure statements on a section
13 of the bill. Could you clarify what section of the
14 bill, you know, what you meant?

15 MR. BROWN: What we're meaning by that is the
16 section that's contained in the 900 and 976 service
17 charges.

18 MS. HARBER: Okay. So that -- so it may not
19 be on every page that a 900 charge appear but it would
20 be the section.

21 MR. BROWN: The section that those appear.
22 You may have four, five pages of 900/976 charges but it
23 would be that section, possibly the first page of that
24 would have that notice on there.

25 MS. HARBER: Okay. All right. I'd like to

1 make a statement.

2 MR. SMITH: Okay.

3 MS. HARBER: You know, and I think that the
4 proposal that the Staff is making is a better or more
5 improved recommendation on the Phase I. Southern Bell
6 would reiterate some of the comments that AT&T has made
7 that the statement "Nonpayment of 900 or the 976
8 charges will not result in discontinuance of your local
9 service" is too repetitive to put on every page.

10 One of the concerns that we have is that a
11 customer would get that bill and instead of disputing
12 the call or disputing the charge, would just not pay
13 the bill. And so we get a partial payment for a total
14 bill, and we don't know whether they were disputing a
15 976 charge or an advertising charge on another
16 regulated charge. In other words, we'd just get a
17 partial payment. And unless that customer calls in and
18 questions the 900 complaint, we don't have a way to
19 recourse that complaint. So we don't have a way to
20 adjust the bill. So we feel like, you know, more
21 customer education is needed than just to say
22 nonpayment of a charge will not result in your
23 discontinuance of service.

24 We also believe that more education is
25 needed, and we would certainly be willing to, you know,

1 like AT&T suggested, include information in the white
2 pages, the customer guide of the directory; also print
3 some information in customer inserts to explain that,
4 you know, if you have a problem with a 900 or 976
5 service charge, then to call in and make a complaint.

6 MR. SMITH: Are you proposing that something
7 else be put in the language of the rule itself that
8 would go on this basic notice that would explain all
9 this or you would explain it through the inserts?

10 MS. HARBER: A more lengthy explanation, I
11 believe, is needed of customer billing rights and I
12 think that would be best served by a bill insert, or
13 information within a customer education publication.

14 MR. SMITH: Does that conclude your statement?

15 MS. HARBER: Yes, sir.

16 MR. SMITH: Oh, okay. Could we again get
17 back in order, go down the row, please.

18 MS. WINEGARD: No questions.

19 MR. TWOMEY: Is it your position, Southern
20 Bell's position, that increased customer education
21 through the form of periodic bill inserts or expanded
22 information contained in the white pages has to be done
23 in lieu of customer notice on the bill?

24 MS. HARBER: That is our preference is that
25 it would be in the customer publication or customer

1 white pages of the directory.

2 MR. TWOMEY: I understand. Doesn't it
3 follow, though, that given your choice that too much
4 education in a field that is mired in controversy, in
5 disputes and causes some bad reputation for segments of
6 the industry, that too much education would be better
7 than risking too little. And that the preferable
8 course, in this case, would be to have additional
9 education of your customers through the periodic bill
10 inserts, in the white pages, have that in addition to
11 not in lieu of the information that the Staff proposes
12 in the bill to be placed on the billing statements
13 themselves?

14 MS. HARBER: We could agree. I would prefer
15 the recommended Staff change to the rules as far as
16 putting it in a section of the bill rather than on
17 every page.

18 MR. TWOMEY: Thank you.

19 MR. SMITH: Questions.

20 MS. CASWELL: No questions.

21 MR. SMITH: Questions. Harold?

22 MR. McLEAN: Southern Bell, you have number
23 of subscribers presumably who also are customers of
24 American Express, get their credit card statements and
25 what not. Would you agree with me that customers

1 probably don't perceive if they fail to pay their
2 American Express bill that their local phone service
3 will be terminated. Do you agree with that?

4 MS. HARBER: All right. I agree.

5 MR. McLEAN: It would seem so. Do you think
6 there is a perception in the community if they don't
7 pay their phone bill in its entirety that it might be
8 terminated?

9 MS. HARBER: I believe that we have been
10 educated with customers about those rights.

11 MR. McLEAN: Do you think you've successfully
12 educated them that that is no longer the case? Do you
13 think it's still --

14 MS. HARBER: I think we still need to
15 continue to educate through billing service and
16 information to customers about those billing rights.

17 MR. McLEAN: So you would agree that there is
18 still some perception if they don't pay their bill in
19 its entirety, they might have their local service
20 terminated?

21 MS. HARBER: Yes.

22 MR. McLEAN: Do you think that's as a result
23 of -- exactly true where we were the last 50, 60, 75
24 years in the United States. Wasn't that true, say, for
25 example, in 1950?

1 THE REPORTER: I'm sorry, I can't hear you.

2 MS. HARBER: Okay. If you don't pay your
3 bill --

4 MR. McLEAN: The basic notion is that it was
5 true in this country for a long time, would you agree,
6 that if you didn't pay the bill in its entirety, that
7 your local service would be terminated?

8 MS. HARBER: That's true.

9 MR. McLEAN: As Mr. Twomey says, if we err in
10 one direction or another, wouldn't you agree we should
11 err in the direction of too much?

12 MS. HARBER: I agree that we need to continue
13 to educate our customers on what their billing
14 responsibilities and obligations are.

15 MR. McLEAN: That's all I have.

16 MR. SMITH: Anyone else have a question?
17 Anyone else wishing to make a statement?

18 MR. ERWIN: I've just got some written
19 comments to pass around. That's all.

20 MR. SMITH: Okay. Why don't you do that
21 then.

22 MR. SMITH: Do you want to summarize them or
23 just --

24 MR. ERWIN: No, I don't think so.

25 MR. SMITH: Do you want anybody to know what

1 they are? (Laughter)

2 All right, I will mark this as Exhibit No. 2,
3 the Written Comments of Indiantown Telephone System.

4 (Exhibit No. 2 marked for identification and
5 received in evidence.)

6 MR. SMITH: Okay, we have your comments,
7 Mr. Erwin. Thank you.

8 MR. ERWIN: Thank you.

9 MR. SMITH: Mr. Twomey, do you wish to make a
10 statement?

11 MR. TWOMEY: Yes, sir, I do. First, I would
12 like to start, I would like to open with the premise
13 that there are, indeed, some good and valuable 900
14 services that are being offered in the state of Florida
15 and throughout the United States. I would suggest to
16 you that there is a broad body of 900 services that are
17 of dubious value, that are entirely legal, and that
18 caveat emptor should presume to exist so long as the
19 customers have full and complete knowledge of what they
20 are buying and what they are paying for.

21 At the other extreme, I would suggest to you
22 that the number of complaints that this Commission
23 receives, the Division of Consumer Affairs, that the
24 Attorney General's office receives, that the Department
25 of Agriculture receives, that the U.S. Congress

1 receives, and the FTC and the FCC, would indicate that
2 there is a growing body, a plague indeed, of con men
3 that are using 900 services to rip off telephone
4 customers around this state and the United States.

5 In Florida, according to a recent calculation
6 prepared by the Division of Consumer Affairs staff, in
7 1990 there were 489 protests or inquiries regarding the
8 900/976 services in all of that year. As of last week,
9 in this year a little over half, close to seven months,
10 there were already 385 such protests or inquiries. In
11 all of 1990 there were 81 complaints, that is
12 formalized complaints, filed with the PSC regarding
13 900/976 services. As of last week already this year
14 there were 71.

15 The savings that the PSC Staff attributed to
16 their actions last year in resolving 900/976 complaints
17 were calculated as being \$4,182. Incredibly, and
18 shocking in my opinion, to date for 1991, they
19 calculate that they have saved their telephone
20 customers \$23,440 by the resolution of the 72-some
21 complaints and the other inquiries.

22 The facts are that everybody that has got
23 some kind of a scheme or a scam is getting in on the
24 900 deal: credit card applications, job employment,
25 sweepstakes, prizes, free trips, free hotels and the

1 like.

2 There is legislation being considered by the
3 U.S. Congress, both in the Senate and the House; there
4 are proposed rules before the FCC; there's actions
5 taken by the FTC to curb these. There is a growing
6 problem and we can't afford to put our head in the sand
7 and ignore the extent of it.

8 Now, what the Staff proposes here today is
9 real simple: notification, complete and adequate
10 notification of customer rights that exist already. We
11 are not proposing at this juncture additional rights --
12 which, by the way, we feel are necessary and we will
13 bring up in the next phase of this proceeding -- we are
14 talking about letting people know about the rights that
15 they possess today.

16 Now, I think a telling example about what we
17 are dealing with here today is contained in the written
18 comments of Sprint and Gateways that was filed May
19 31st, 1991, with the Commission. On Page 5 of those
20 comments it is stated, and I quote, "Disconnect of
21 local service for nonpayment of charges adds
22 considerable value to LEC B&C," and I assume that's
23 billing and collection, "services. Removing the local
24 disconnect threat could diminish the value of the LEC
25 B&C services by threatening the ability to collect for

1 legitimate 900/976 charges."

2 Now, I suggest to you that it's real
3 important that we understand what is being said there,
4 and I would suggest to you that it's not just
5 representative of Sprint Gateways because I don't
6 intend to pick on them. I think it's the attitude that
7 prevails within the industry, by and large, with some
8 exceptions. What is being said here, as I see it, is
9 that we need the threat of disconnecting local service
10 in order to have real value for the billing and
11 collection services.

12 What we have to understand is that
13 threatening a person with a disconnection of their
14 local service for failure to pay nonregulated charges,
15 i.e., 900 charges, is against the rules of this
16 Commission; it is unlawful.

17 Now, if you go anyplace else and you threaten
18 somebody with an unlawful action to coerce money from
19 them, it's extortion.

20 So let's be clear: We're talking about
21 notifying people of their rights, pure and simple.

22 Now, in Sprint's case their not talking
23 necessarily about actions they want the LEC to take
24 against their customers, right? When someone,
25 typically any information providers or service bureaus

1 that they have billing and collection or contracts
2 with, they won't have the IXC service for that customer
3 that bills it, it will just show up on their bill.
4 They're talking about in most cases offending their
5 customers, by law of averages most customers that have
6 the services billed through Gateways will be AT&T
7 customers. They will have as their choice AT&T because
8 they have the most.

9 Now, the bill proposes, or the rule proposes
10 to give the customers adequate notice, and that's what
11 we're here for. As demonstrated by the Staff's
12 calculations, abuse is on the rise. The Attorney
13 General and the Public Counsel of this state filed this
14 proposed rule in mid-January of this year. So far
15 nothing has happened; the abuse continues.

16 Now, most of the comments, most of the other
17 comments that were received, or submitted by the
18 parties to this case, offered, like AT&t for example,
19 "We think it's a good idea, we recognize that customers
20 have these rights or, in fact, that they exist. But we
21 think that too much notification of the customers, too
22 much education, is a bad thing because the customers
23 will be led to believe they don't have to pay for
24 legitimate charges."

25 I would suggest to you that that's a slap in

1 the face to the customers, the vast majority of whom
2 pay their legitimate bills and pay them with absolute
3 regularity.

4 Notification in the white pages, in my
5 opinion, notification stuck in the billing insert, is
6 just about as good as putting this kind of notification
7 of the customers' rights in 100-foot letter on the
8 moon. If the customers are not made aware of what
9 their rights are at the time they need to what they
10 are, that is when they are paying their bills, it
11 doesn't do them any good at all. And the problem that
12 we are here for, the abuse that we are suffering is the
13 fact that people are misled into paying for services
14 that they don't have to pay, that they may dispute
15 because they are afraid that they will lose their local
16 service.

17 The other excuses, and I think they are
18 excuses that are offered by some of the respondents
19 here, are that "We can't do it." We're dealing with
20 some of the most technologically advanced companies in
21 the world. We don't accept that additional statements
22 can't be placed on the bill. And if, in fact, it
23 requires additional expense, Mr. Hoppe addressed that.
24 You can go to your providers, you can go to the people
25 that you have contracts with and you can get the

1 additional monies. If you don't, if you have to weigh
2 that against adequate notice, too bad; eat the
3 additional expense just like you would any other
4 additional expense between rate cases.

5 If it causes a telephone bill to be
6 lengthened by a page, or half a page, or whatever,
7 everybody knows that telephone bills are of varying
8 length, depending upon the number of calls that are
9 made. We would prefer to see that telephone customers
10 are fully and adequately notified of their rights even
11 if it means an extra page on the bill.

12 So I thank you for your time. We want to see
13 customers exposed to their rights. Thank you.

14 MR. SMITH: Thank you. Are there any
15 questions of Mr. Twomey?

16 MS. PEED: I have one question. Does the
17 Attorney General's office support the Staff's
18 recommendation as to the disclosure notice of hearing
19 on each section where 900 charges appear, or is the
20 Attorney General's office in support of each page?

21 MR. TWOMEY: Well, frankly I should have
22 asked the question. I don't understand the
23 distinction. Maybe someone can enlighten me. It seems
24 to me that if there is a section where 900 charges
25 appear, it is on a page. Does that mean just the first

1 page that the section appears on or what does it mean?

2 MR. BROWN: It would be the first page, and
3 that's what we discussed earlier when Southern Bell
4 asked for that clarification, also.

5 MR. TWOMEY: Okay, I didn't catch it.

6 MR. BROWN: It would be on the first page, if
7 there was multiple pages of 900/976 charges. If it was
8 just on one page in a section, it would just be on that
9 page.

10 MR. SMITH: Let me ask a question. As a
11 practical matter, do people, does anyone know, if
12 customers have more than one page of 900 charges,
13 typically, or sometimes, or often?

14 MR. BROWN: Staff is aware that it can be
15 multiple pages.

16 MR. SMITH: But in how many cases, 50%, 20%,
17 1%? Are we talking about a big problem or a
18 nonproblem, is what I'm asking.

19 MS. HARBER: I'm not aware of any.

20 MR. SMITH: Yes?

21 MR. NELSON: Mike Nelson with Sprint
22 Gateways.

23 It would be dependent, I think, on, one, how
24 many 900 calls would be made by a customer in a month.
25 It would also be dependent upon how the LEC bills it.

1 You know, if it shows up under each section of the bill
2 for each carrier, for example, I make three 900 calls,
3 one through an AT&T 900 number and one through an MCI
4 900 number and one through a Sprint 900 number,
5 depending on how the LEC bills it, that could be three
6 separate pages, or they could lump them all under one
7 section.

8 MR. SMITH: Okay.

9 MR. TWOMEY: May I?

10 MR. SMITH: Yes.

11 MR. TWOMEY: Does your proposal envision, in
12 addition to putting it on the first page where the
13 section starts, having this information on the final
14 page, or whatever page it is, where the total bill is
15 listed?

16 MR. BROWN: Mr. Twomey, the rules already
17 require that they be notified that nonpayment of
18 regulated charges will result in discontinuance, so
19 there some notification there that if you don't pay
20 your regulated charges, it's kind of more of a positive
21 statement than a negative statement; that if you don't
22 have to pay your nonregulated charges, it would seem
23 sort of ambiguous, in the Staff's opinion, to have an
24 additional statement there basically restating what you
25 have already stated there. That's already in the rules

1 and already required.

2 MR. TWOMEY: Well, to answer your question, I
3 think having just -- we would support just having the
4 notification at the beginning of the section as opposed
5 to every page. However, I think in Phase II, or
6 whatever opportunity, we would like to press to have
7 the same statement put on the page where the total
8 billing appears because we feel that the current
9 language of the rule about the nonpayment of regulated
10 charges is confusing and misleading in many cases. But
11 the answer to your questions is "yes."

12 MS. PEED: Would the Attorney General's
13 office rather have the notice provision on the last
14 page of the long distance carrier's bill rather than
15 the first page where the 900 charges may appear?

16 MR. TWOMEY: You mean if we could only have
17 one would we rather have it on the beginning? If
18 there's three pages of 900 listings, the first page or
19 the second or the third?

20 MS. PEED: Uh-huh.

21 MR. TWOMEY: I would like to see it on the
22 third page right where the total is. If there is a
23 subtotal for 900 charges, I would like to have it close
24 to the total for 900 charges as possible.

25 MS. PEED: Thank you. That's all the

1 questions I have.

2 MR. SMITH: Ms. Winegard?

3 MS. WINEGARD: Yes, sir.

4 Mr. Twomey, in your statement you listed the
5 complaints that had been received in 1990 and '91 so
6 far to date. Are you also familiar with the total
7 number of completed 900 calls during these respective
8 time periods?

9 MR. TWOMEY: No.

10 MS. WINEGARD: So you can't tell me whether
11 the total number of 900 calls has increased in 1991
12 over 1990, can you?

13 MR. TWOMEY: No. I would expect, just from
14 my general reading and the dollar impact of the
15 industry, that they have increased substantially.

16 MS. WINEGARD: You also mentioned several
17 services which you thought would be gouging the public,
18 and I forget your exact language. Are you familiar
19 with efforts by AT&T and the other carriers to
20 implement more stringent guidelines dealing with
21 problematical areas?

22 MR. TWOMEY: Yes, I am, and in particular I
23 am aware of the new guidelines that your company, AT&T,
24 has, and I commend you for them. I think, not to
25 favorably contrast you to the others because I'm not

1 aware of what their new measures might be, but I have
2 read every page of your new guidelines and I think they
3 are highly commendable.

4 MS. WINEGARD: Thank you. That's all I have.

5 MR. SMITH: Mr. Self?

6 MR. SELF: No questions.

7 MS. CASWELL: No questions.

8 MR. SMITH: Mr. Erwin?

9 MR. ERWIN: No questions.

10 MR. BERG: No questions.

11 MR. SMITH: Mr. McLean?

12 MR. McLEAN: No questions.

13 MR. SMITH: Okay. Is there anyone else
14 wishing to make a statement? All right, go right
15 ahead.

16 MS. JOHNSON: May I speak from here?

17 MR. SMITH: Yes, that's all right, but you
18 will have to speak loud because the court reporter has
19 to be able to hear you.

20 MS. JOHNSON: I am Beth Johnson from the
21 Florida Department of Commerce. And under Chapter
22 288.701 it sets forth the duties of the Florida
23 Department of Commerce, Division of Economic
24 Development, one of which is to review state agency
25 rules for effect on small businesses. It is one of my

14 Under the impact on small business, we agree
15 with the statement. The six small businesses indicated
16 that the rule amendments could potentially put them out
17 of business within a year or less. Increases and
18 chargebacks on collectibles, coupled with minimal
19 resources to perform their own billing and collection
20 activities were the main reasons for these companies
21 possibly terminating businesses, doing business in the
22 state of Florida.

23 Under the economic impact statement, the
24 statement on impact on employment, we agree with the
25 statement. All nine information providers who

FLORIDA PUBLIC SERVICE COMMISSION

1 responded to the data request indicated that the rule
2 amendments would either put them out of business or
3 cause them to move their operations outside of the
4 state of Florida.

5 Small businesses do not have the financial
6 resources of the larger companies. They do not have
7 the staff of the larger companies nor do they have the
8 sophisticated computer facilities of the larger
9 companies to conduct collection activities.

10 All we are asking is that you provide, the
11 Staff, before this rule passes in whatever form, please
12 give consideration to the small businesses encompassed
13 in the rule under Chapter 120.54(2)(a), which is called
14 "tiering." Consider tiering as a time frame for
15 compliance. At least we ask that you give them a year
16 to build their financial reserves necessary to comply.

17 That is the end of my statement.

18 MR. SMITH: Ms. Johnson, do you have any idea
19 how many of these 900 service providers are small
20 businesses, how many there are in Florida that would be
21 affected in this way?

22 MS. JOHNSON: I was just quoting from the
23 EIS.

24 MR. SMITH: Oh, you were just quoting from
25 the EIS?

1 MS. JOHNSON: Yes.

2 MR. SMITH: Okay.

3 MS. JOHNSON: Yes. I can tell you how many
4 small businesses there are in the state.

5 MR. SMITH: All right. Would you like to
6 respond, Mr. Hoppe?

7 MR. HOPPE: To your question. Of the nine
8 respondents that we have in the Commission files, six
9 of them indicated that they were small businesses. I
10 don't know how you would want to weigh that, but that
11 would be 66% of the respondents.

12 MS. SMITH: Does anyone from the telephone
13 companies know how many 900 service providers there are
14 in Florida, roughly? (No response)

15 Well, you must have some idea, right?

16 (Pause) No? Does anyone want to guess?

17 MR. HOPPE: I could provide you with a list,
18 of the listings that we have, we could get a number
19 from that, but I don't have it right off the top of my
20 head. I could provide you with the listings from the
21 local exchange companies that we got and the
22 interexchange companies.

23 MR. SMITH: Okay, if you could do that.

24 MR. HOPPE: I could supply you with that.

25 MR. SMITH: Okay. Anything further? Did you

1 want to say something else?

2 MR. TWOMEY: I have a question.

3 MR. SMITH: Okay.

4 MR. TWOMEY: Ms. Johnson, the Department of
5 Commerce is not opposed to telephone customers
6 receiving full and complete notification and education
7 of their legal rights, is it?

8 MS. JOHNSON: Mr. Twomey, I am neither a
9 lawyer nor a research analyst, and we have no stance
10 other than the one that I stated.

11 MR. TWOMEY: Let me ask you one more
12 question, if I may.

13 If, in fact, there was a situation existing,
14 either in the law or in the application of it as in
15 this industry now, that was somewhat egregious to
16 customers requiring correction, you would not ask that
17 -- you are not asking, or you would not ask that small
18 businesses would be given an additional year to
19 continue these operations solely to increase their
20 financial report?

21 MS. JOHNSON: I, Beth Johnson, am not
22 advocating that small businesses break the law.

23 MR. TWOMEY: Thank you.

24 MR. SMITH: Mr. McLean?

25 MR. McLEAN: Two questions: Ms. Johnson,

1 would you believe that every order of the Public
2 Service Commission, without exception, includes a
3 section on the order which advises the affected parties
4 of every imaginable rights that they might have with
5 respect to that order? Do you believe that true?

6 MS. JOHNSON: I just stated that I am not a
7 lawyer.

8 MR. McLEAN: Do you believe that the
9 Department of Commerce follows exactly the same
10 procedure?

11 MS. JOHNSON: I believe they follow the law.

12 MR. McLEAN: Thank you, ma'am.

13 MR. SMITH: Thank you. I'm glad that's the
14 perception out there. (Laughter)

15 MR. McLEAN: We're not under oath, David.

16 MR. SMITH: True. (Laughter)

17 Okay, any further questions of Ms. Johnson?
18 Is there anyone else who would like to make a
19 statement?

20 Yes, Mr. Nelson?

21 MR. ERWIN: Mr. Smith, I would just like to
22 offer the comment, an observation of how useful these
23 proceedings are where the lawyers get to both ask the
24 questions and answer them.

25 MR. SMITH: It saves a lot of time.

1 (Laughter)

2 MR. SELF: Mr. Smith, before Mr. Nelson
3 begins for Sprint Gateways, would it be useful to take
4 a poll of the parties here to see if there is not
5 agreement with respect to the adoption of the Staff
6 amendments? That may save some time if we all agree
7 that that change is appropriate.

8 MR. SMITH: Well, we could take a poll.
9 You're speaking of the amendment to put it on just a
10 section, is that correct?

11 MR. SELF: Yes.

12 MR. SMITH: Okay. How many of the parties
13 here would agree that that is an appropriate change and
14 would support it?

15 MS. MENARD: Where I've got a problem is I
16 support only doing it once. We fully support only
17 doing it once and, depending on exactly where we would
18 need to put it on the bill, I don't know what kind of a
19 billing problem that is going to cause. But I support
20 doing it once.

21 MR. SMITH: You're going to hold up your
22 hands and let me do a count; otherwise, there is no way
23 of recording your agreement or disagreement.

24 MR. POAG: Could I just respond to that?

25 MR. SMITH: Yes.

1 MR. POAG: I have the same concern, and
2 that's whether it would be on the first page or whether
3 it would be on the summary page. Our programming is
4 currently planned to put it on the summary page, and I
5 believe that since we plan to segregate these calls on
6 the bill, that in the vast majority of the cases that
7 putting it on the same page where the calls are
8 separated will take care of that issue for the most
9 part. There may be some exceptions to that but I would
10 suggest that, whether it be on the first or the
11 summary, unless a customer has a tremendous amount of
12 900 and 976 calls, there's probably going to be only
13 one, maybe two pages. To the extent that if you do
14 have a customer who has numerous calls, I would
15 anticipate that he would generally be informed about
16 the 900 and 976 services and what their rights are.

17 MR. SMITH: Okay. Well, why don't you --

18 MR. ERWIN: Excuse me. Is it the intention
19 of this rule to attempt to tell the telephone companies
20 precisely where on their billing this one statement
21 should be placed? It doesn't appear to me that, even
22 as amended by the Staff, that that's the case. And so
23 I don't know why we can't simply say that we feel that
24 the information shall be clearly and conspicuously
25 disclosed on the bill containing the 900 or 976

1 charges.

2 MR. SMITH: We are getting a little afield.
3 Let's get back to the original question of who supports
4 the amendment as proposed by Staff and not discuss the
5 technical problems with deciding how an individual
6 company is going to do that. Let's go down the line.

7 Do you support it, Ms. Peed?

8 MS. PEED: Southern Bell supports the Staff's
9 amendment.

10 MS. WINEGARD: AT&T supports it.

11 MR. SELF: Sprint Gateways supports it.

12 MR. TWOMEY: Yes, at the bottom line, at the
13 total.

14 MR. SMITH: Do you want to explain that
15 again?

16 MR. TWOMEY: Well, it goes to Mr. Erwin's
17 point. We believe that there is value in proximity of
18 the notification of rights to the bottom line, the
19 subtotal for these charges.

20 MR. SMITH: Okay.

21 MR. TWOMEY: If, in fact, the rule were
22 adopted as currently proposed, without the amendment,
23 if it's a requirement on every page, of necessity it
24 has to be on the page with the total. We are
25 agreeable, that is the Attorney General's Office is

1 agreeable to it appearing once, so long as it's near
2 the total.

3 MR. SMITH: Okay.

4 MS. CASWELL: GTE Florida supports the
5 amendment with the qualifications noted by Ms. Menard.

6 MR. SMITH: You had better state them again.

7 MS. MENARD: That at this point, not knowing
8 how the final wording or where, on what section of the
9 bill it's interpreted to be, if that causes a billing
10 problem.

11 MR. SMITH: Okay. Mr. Erwin?

12 MR. ERWIN: Well, since nobody seems to know
13 just what this means, I don't see how I can support it.

14 MR. SMITH: Okay.

15 MR. ERWIN: It doesn't tell me where on the
16 bill this should go and it doesn't tell me much else
17 other than it should go on the bill. I don't really
18 understand, until you clarify just what this language
19 means, I don't feel that I could feel free to support
20 it.

21 MR. BERG: United supports it. Can I say one
22 other thing?

23 MR. SMITH: Yes, if it's relevant to this.

24 MR. BERG: It appears from the Staff
25 amendment that the language in this phase that we are

1 considering now is substantially similar to the
2 language in Phase II, with some minor touch-ups. I
3 would like to suggest that, rather than having to go
4 into our billing system twice, that we adopt the
5 language in the Phase II, the Phase II language of the
6 rule, that would put that forward for consideration.

7 MR. SMITH: I am not personally aware of what
8 Phase II language is being proposed, and it hasn't been
9 proposed at this point, so I don't know how we could do
10 that. Does the Staff want to comment on that? I'm not
11 sure exactly what you mean.

12 MR. BERG: I'll make the point and then I'll
13 read the comments, if you like.

14 What we've got now is we've got Phase I that
15 has got the language in it. We have got Phase II
16 coming up, and Phase II is broader than Phase I. But
17 on the same subject matter that we are considering in
18 Phase II, we have substantially similar language with
19 just a few differences here. I believe instead of just
20 900/976 service, that they call the services
21 "pay-per-call services." I believe that that is the
22 only difference now between Phase I and Phase II. But
23 it seems like we are spinning our wheels a little bit
24 if we adopt some language now and then we come along in
25 Phase II and change the language just slightly.

1 MR. SMITH: Okay. Well, if you would put it
2 in your follow-up comments.

3 Mr. McLean?

4 MR. McLEAN: We oppose the amendment for the
5 reasons of an intuitive observation that we don't
6 really need to be worrying about whether it appears on
7 one page or two pages. And I think that any page where
8 the 900 service is mentioned would be an appropriate
9 place to tell the customer of his rights.

10 MR. SMITH: All right. Mr. Willis?

11 MR. WILLIS: Central Telephone Company of
12 Florida supports the amendment. We have some of the
13 same concerns that Ms. Menard expressed.

14 We are also concerned about doing this,
15 however we do it, at one time. And I would also like
16 to state that we are very concerned about this area.
17 We are concerned that the Commission, as we all are,
18 that the Commission come to a decision on which way to
19 do this as quickly as possible so that then we can take
20 the time to change the billing system and to get this
21 underway.

22 MR. SMITH: Okay. If anyone has a suggestion
23 as to how you might overcome or clarify that perceived
24 problem of deciding where it goes on the bill, then you
25 might put it in some follow-up comments.

1 Okay. Do you have any other questions?

2 MR. TWOMEY: Just to say that we would oppose
3 any additional delay in the implementation of providing
4 the customers with notification of their legal rights.
5 And if it means going with the rule as it is
6 promulgated, or proposed by the Commission now, then
7 sobeit.

8 MR. SMITH: Okay. Now, back to Mr. Nelson.

9 MR. SELF: Sprint Gateways calls as its
10 witness Mr. Mike Nelson.

11 MR. SMITH: Okay. Well, first, let's make
12 sure that there is no one else who simply wanted to
13 make a statement. I was going to wait until all of
14 those people were finished before we started with the
15 actual witnesses. Is there someone else?

16 MR. McLEAN: I would just like simply to
17 adopt Mr. Twomey's statements and his answers on behalf
18 of the Office of Public Counsel, and again reminding
19 that we are not under oath.

20 MR. SMITH: Okay. If there is no one else
21 who wants to just make a statement, we will then go to
22 the witnesses.

23 Mr. Poag, did you want to make a statement?

24 MR. BERG: He's going to be a witness.

25 MR. SMITH: He's going to be a witness, okay.

1 We are doing witnesses now, starting with Mr. Nelson.

2 MICHAEL NELSON

3 was called as a witness on behalf of Sprint Gateways
4 and testified as follows:

5 MR. SELF: Can you just give your name and
6 address for the record?

7 MR. NELSON: Sure. Michael Nelson. My
8 address is 8140 Ward Parkway, Kansas City, Missouri
9 64114. I represent Sprint Gateways.

10 US Telecom, Inc., d/b/a Sprint Gateways,
11 supports the Commission's goals in informing customers
12 of their rights when it comes to pay-for-call services.

13 The two goals of this proceeding are to
14 inform customers that nonpayment of pay-per-call
15 charges will not result in disconnection of local
16 service, and the customers can obtain blocking from
17 their local telephone company.

18 Sprint Gateway supports these goals.
19 However, it disagrees with the method of notification
20 proposed in Phase I.

21 Sprint Gateways originally believed, and
22 still believes, that a periodic bill insert can
23 adequately inform consumers of their billing rights.
24 Sprint Gateways believes that excessive notification of
25 a customer's rights will encourage the customer not to

1 pay valid legitimate charges, with the customer knowing
2 that no harm will come to them if payment is not made.

3 Sprint Gateways considers the wording
4 proposed in Phase I requiring a message on each page of
5 the bill to be excessive notification and we feel it
6 encourages nonpayment of valid legitimate charges.

7 While Sprint Gateways continues to believe a
8 bill insert is an adequate vehicle to notify consumers,
9 Sprint Gateways does support the language proposed by
10 the Staff today, and it also supports the language that
11 has been brought up in Phase II of this proceeding in
12 Section 10(a).

13 As compared to the Phase I language, the
14 Phase II language in Staff's amendment today requires
15 specific information be communicated to the consumer
16 while not requiring a message on every page.

17 Messages on each page of the bill containing
18 pay-per-call charges increases the cost of billing,
19 encourages nonpayment of legitimate charges and will
20 increase the length of the bill to the customer.

21 In contrast with the proposal today and the
22 Phase II rules, that language requires that each
23 section of the bill contain the required messages,
24 which we believe more than adequately notifies the
25 customers of their billing rights while not excessively

1 notifying the customers encouraging nonpayment.

2 In addition, the Phase II language that has
3 been circulated earlier refers generically to
4 pay-per-call services than to specific types of
5 pay-per-call services, such as 900/976.

6 Sprint Gateways believes that these
7 distinctions make the Phase II proposal, proposed
8 language more reasonable and supports the use of Phase
9 II language in the Phase I proceeding.

10 MR. SMITH: Thank you. Questions? Staff, do
11 you have any questions? Southern Bell?

12 MS. PEED: No questions.

13 MR. TYE: No questions.

14 CROSS EXAMINATION

15 BY MR. TWOMEY:

16 Q Yes. Mr. Nelson, you said you support
17 notification to customers of their legal rights,
18 correct?

19 A Yes.

20 Q Including the right that they know, which I
21 assume you recognize that their local service is not to
22 be disconnected for failure to pay unregulated charges,
23 is that correct?

24 A That's true, and that's also an FCC
25 requirement.

1 Q And you said something to the effect that --
2 and forgive me if I -- and stop me if I improperly
3 paraphrase you, but something to the effect that too
4 much notification of this right on a page-by-page
5 basis, for example, would let the customers know that
6 no harm would come to them from the LECs, even if they
7 don't pay their legitimately owing calls. Right? Did
8 you say that?

9 A Yes. I said that excessive notification
10 would allow customers to not pay charges knowing that
11 no harm would come to them.

12 Q Okay. Would you agree with me that under the
13 current status of the law, and by law I mean the FCC's
14 rules and the Commission's rules as well, that
15 customers are supposed to be able to not pay their
16 legitimately owing calls, be they 900 or 976; be they
17 charges related to yellow page advertising and other
18 unregulated or nonregulated services. That it is
19 supposed to be a customer's right, under the existing
20 status of the law, that they can refuse to pay those
21 with some impunity from their local exchange company?

22 Let me make it clear; that they can refuse to
23 pay those charges under the current status of the law
24 and feel confident that they will not be disconnected
25 from their local service so long as they pay their

1 regulated charges.

2 A I would agree that they cannot be
3 disconnected for those services. However, to the
4 extent they are not disputed and they're valid charges,
5 they are required to pay for those charges.

6 Q Required by whom?

7 A Well, they've incurred a service and they've
8 received a service and they should pay.

9 Q Yes, but don't you agree and don't you
10 recognize that this threat, as mentioned in your
11 written comments, the threat of local disconnect is
12 something that you're not legally entitled to? Do you
13 recognize that?

14 A Well, I don't know that we've ever threatened
15 a customer to disconnect their local service. In fact,
16 we're not allowed to and I'm certain that we have not.

17 Q In fact, you can't do it. You've got to
18 talk the local exchange company into doing it; isn't
19 that correct?

20 A Like I said, we do not disconnect people for
21 nonpayment of 900 charges.

22 Q Yes. But what I'm asking you specifically,
23 do you recognize that -- and the word "threat" is not
24 my own, it's yours, your Company's -- disconnect of
25 local service for nonpayment of charges adds

1 considerable value to LEC B and C services. Removing
2 the local disconnect threat could diminish the value of
3 these services.

4 My question do you is do you recognize that
5 that threat, whether it's ever been used or not, is not
6 available to you legally?

7 A I'm aware that we do not disconnect local
8 service for nonpayment of 900 charges.

9 Q Okay. Now, you express some concern about
10 customer -- a customer's bill increasing in length, is
11 that correct?

12 A Yes.

13 Q What's the problem?

14 A Well, it increases billing and collection
15 costs, which eventually flow back to us and we pay to
16 the local exchange carrier.

17 Q I see. Do you have any -- if there's an
18 additional page added to a customer's bill, how much
19 would that add to your ultimate bill to the LEC, do you
20 know?

21 A Well, most of our billing and collection
22 arrangements are by contract and those are negotiated
23 rates, so I don't know how much would flow back to us.

24 Q Do they bill by the page, Mr. Nelson, if you
25 know, or do they bill on some other basis?

1 A Some by the bill, the number of bills that go
2 out and by the message.

3 Q Okay. Let me ask you, isn't it really true
4 that your company is in favor of increasing the length
5 of customer bills. That's really what you want, isn't
6 it?

7 A I don't think I've ever said that.

8 Q No, it's a question to you. You're in the
9 business of carrying 900 service, that's why you're
10 here, right?

11 A We carry 900 services, yes.

12 Q Right. And isn't it true that if you're --
13 do you generate -- your company, does it generate these
14 programs itself?

15 A No, we do not.

16 Q Do you have a subsidiary or an affiliate that
17 generates these programs?

18 A The programs are provided by information
19 providers. We act basically as a conduit.

20 Q I see. So you don't have any affiliates or
21 subsidiaries that are information providers?

22 A That's right.

23 Q Okay. You're a conduit.

24 As a conduit, isn't it correct that the more
25 services sold by the information providers the more

1 money you make if they come through your conduit?

2 A Sure. We want to sell 900 services and
3 that's the business we're in.

4 Q Yes, sir. And wouldn't it be correct then
5 that the more services that I purchase, 900 services
6 that I purchase, that go through the 900 conduit of
7 Gateways, Sprint Gateways, the better off you are?

8 A Well, our objective, our business is
9 providing a conduit for 900 services. We're not in the
10 business of lengthening local telephone bills.

11 Q Yes, sir. But if I use, if I use -- the more
12 900 services I use, the longer my bill, right?

13 A Yeah.

14 Q Of necessity.

15 A Yes.

16 Q Okay. Thank you very much.

17 MR. SMITH: Any other questions of Mr. Nelson?

18 MR. TYE: Mr. Hearing Examiner, could I ask
19 him a couple of questions which kind of relate to what
20 Mr. Twomey asked?

21 CROSS EXAMINATION

22 BY MR. TYE:

23 Q Mr. Nelson, I'm Mike Tye and I represent
24 AT&T.

25 A couple of questions Mr. Twomey asked you

1 went to whether or not the customer is required to pay
2 the charge, whether or not he's going to be
3 disconnected.

4 Now, is it the position of your customers,
5 the information providers, that even though the
6 customer may not be disconnected -- may not have his
7 local service disconnected for nonpayment of a bill,
8 that he may still be liable for the charge that he's
9 incurred for the use of the information provider
10 service?

11 A Yes, it is.

12 Q Okay. And to your knowledge could such an
13 information provider perhaps use a collection agency to
14 try to enforce collection of the bill?

15 A I guess that would be his legal right.
16 That's one thing that we have not allowed to date,
17 though.

18 Q You have not allowed it?

19 A Right.

20 Q What recourse is available to those
21 information service providers today then if the
22 customer refuses to pay a bill that that information
23 service provider thinks is legitimate?

24 A Well, if a consumer disputes a charge on the
25 bill for one reason or another, today we have a very

1 liberal adjustment policy and it's removed from this
2 bill.

3 If the information provider feels that is
4 legitimate, right now with our company he does not have
5 much of a recourse. To the extent the customer has
6 done this month after month after month, then where it
7 would look like it was fraudulent behavior, then action
8 may be taken in that case.

9 Q What would that action be?

10 A That could be requiring the customer to get
11 blocking or face collection activity.

12 Q Okay. So then continued abuse could lead to
13 collection activity?

14 A Yes.

15 Q And it could even lead maybe to a suit in
16 small claims court if the amount was large enough to
17 warrant, is that correct?

18 A Sure.

19 Q Okay, so in your opinion then putting
20 something on the bill that would lead the customer to
21 believe that he can make these calls and never have to
22 pay for them is really a disservice to the customer;
23 would that be a fair characterization of your position?

24 A That's a fair characterization. Yes, sir.

25 MR. TYE: Thank you, sir. No further

1 questions.

2 MR. SMITH: Let me ask a question on that.

3 Are all information providers required to
4 take the billing and collection services of the LEC or
5 the IXC, or are there people out or doing their own
6 billing and collecting?

7 MR. TWOMEY: Yes.

8 MS. WINEGARD: They would have the option to
9 do their own billing and collection.

10 MR. SMITH: I thought you said they had to in
11 your case.

12 WITNESS NELSON: No. No, I did not say that.
13 They do have an option.

14 MR. SMITH: But if they do take your service,
15 and you do the billing and collecting, and you won't
16 let them pursue it in a small claims -- or outside of
17 the channels that you have unless you give them
18 specific permission or what?

19 WITNESS NELSON: Well, if -- the information
20 provider has a choice of their billing and collection
21 method. If it's through the LECs, then we do put
22 certain restrictions on there and one of those is that
23 any second collection efforts have to be approved by us
24 and we have not done so today.

25 MR. SMITH: Okay. But there are people who

1 don't take anybody's service and do it themselves?

2 Okay. Yes.

3 MR. TWOMEY: Let me ask a clarifying question
4 if I may.

5 RE CROSS EXAMINATION

6 BY MR. TWOMEY:

7 Q Mr. Nelson, isn't it true that you have
8 considerable flexibility in who you will agree to bill
9 and collect for, and in turn that the LECs have
10 considerable flexibility in who they will offer their
11 billing and collection services to? Let me clarify
12 that. Isn't it true that the denial of billing and
13 collection services, either by an IXC or a LEC, is the
14 primary leverage those companies have in controlling
15 content of the messages that are put past? The
16 programs that pass?

17 A There are certain programs that we will not
18 provide billing and collection services to.

19 Q Right. But isn't it true that even for those
20 programs that you might find disagreeable, and,
21 therefore, wouldn't provide billing and collection for,
22 you can't stop in many cases -- in most cases; cannot
23 stop the use of your facilities for those services?

24 A It's a common carrier function, yeah.

25 Q Okay.

1 MR. SMITH: Any further questions of Mr.
2 Nelson. Okay. Thank you very much.

3 MR. SMITH: Ms. Menard, I guess you're the
4 next in line there so why don't you go ahead.

5 BEVERLY MENARD

6 appeared as a witness on behalf of GTE Florida and
7 testified as follows:

8 MS. MENARD: Beverly Menard from GTE Florida.
9 And the reason why we requested the hearing was due to
10 the fact that our current billing system cannot do --
11 whether it's the proposed rule or the amended proposed
12 rule, our billing system cannot segregate 900 calls at
13 this time.

14 And we are in the process of installing a new
15 billing system. And so we ask for, whether it's a
16 waiver of the rules, however it ends up being, or the
17 rule be changed so we have time to implement the new
18 billing system where we can segregate 900 calls on the
19 bill.

20 MR. SMITH: How long is that going to take?

21 MS. MENARD: What we had asked in our request
22 was that we would have until March 31. We hope we'll
23 be able to actually implement before March 31. We're
24 hoping that we could be able to do it in January.

25 MR. SMITH: Questions?

1 MR. TWOMEY: Yeah.

2 MR. SMITH: Let's go down the line, okay

3 MS. PEED: No questions.

4 MS. WINEGARD: No questions.

5 CROSS EXAMINATION

6 BY MR. TWOMEY:

7 Q Ms. Menard, how does your company currently
8 reflect 900-type charges on customers bills?

9 A It will be shown on the page of the
10 interexchange carrier that has sent the 900 calls to us
11 to include on the bill. It will be on AT&T's page of
12 the bill, or Sprint's page of the bill, or MCI's page
13 of the bill.

14 Q Let me ask some more questions to understand
15 better.

16 Let's say that I was a customer of yours and
17 my carrier of choice, my IXC of choice was MCI and I
18 would normally expect to have a page from MCI, but I
19 begin using 900 services. I used one without -- I have
20 no ability to know who is carrying the things, but I
21 used a 900 service that is carried by Sprint and I used
22 one that is carried by AT&T. Are you telling me that
23 there would be separate pages that would then show on
24 my bill for AT&T and Sprint?

25 A Yes. Each carrier who is on your bill is

1 always on a separate page.

2 Q So the fact that under those circumstances,
3 just the fact of me using these 900 services would
4 generate two additional pages?

5 A That is correct.

6 Q And if --

7 A But you likewise could have used those
8 carriers and made 10XXX calls for other reasons besides
9 just 900.

10 Q Okay. So if I used -- if my IXC of choice
11 was AT&T and I used 900 services that were exclusively
12 carried by AT&T, those calls would show up intermingled
13 with any other traditional type of toll calls I made
14 from AT&T?

15 A That is correct.

16 Q Does your current billing system have the
17 capacity of adding a statement on existing pages?

18 A Not much. That is one of the reasons why we
19 are going to a new billing system.

20 Q Would it have enough to add the statement
21 about nonpayment not being a basis for local
22 disconnect?

23 A To do it -- to know when the customer had 900
24 and only do it when they had 900, I don't think so.

25 Q How about in an abundance of caution that we

1 added it -- could you add it irrespective of whether
2 there were 900 calls or not?

3 A I don't know. We've never researched that.
4 I don't know. And I personally would object to doing
5 it. To me, what the rule is is only when I have 900
6 charges do I need to reflect that message.

7 Q Yes. And the reason I'm asking these
8 questions is we don't want to be unsympathetic to your
9 -- the constraints of your current billing system, but
10 nonetheless, we filed this petition in early January of
11 this year. It's now close to August and you're talking
12 about going into 1992.

13 The reason I was asking the questions is I
14 was trying to ascertain if there was some way that we
15 could accommodate you and at the same time require the
16 protections for your customers that we seek.

17 A Well, right now we have very liberal
18 adjustment policies. When anybody calls about 900
19 calls, the calls are written off and so there isn't a
20 problem as far as then it's not in their balance due or
21 anything.

22 Q Yes, ma'am. But would you be willing to
23 check whether technically your current billing system
24 could add the "no disconnect" language

25 A One time on the bill?

1 Q On each page that -- each page of an IXC.

2 A The problem I would have with that is we are
3 going to increase the number of pages of the bill.

4 Q No, ma'am. No, ma'am. You just told me if I
5 understood your testimony correctly, that it is the
6 IXCs, it is the selection of an information service
7 program or provider, and their choice of who their IXC
8 carrier is by that dictates whether additional pages
9 are added to a customer's bill

10 A What I'm saying is what could happen today is
11 going to be right now with how much charges they've got
12 there it's taking two pages. By the time I have to put
13 the extra notifiers in there, it may make it go to
14 three or four pages.

15 Q It would be correct -- what you're saying
16 would be correct only if there were a sufficient number
17 of lines and calls listed on the Sprint page that comes
18 up that adding the notification language would force
19 another page.

20 My point being, if there is only one call
21 from Sprint to one of your customers that requires
22 another page. If there's one call, say two calls from
23 AT&T and another one from whoever else is out there,
24 that requires an additional page. There may be just
25 one line of call on there and plenty of white space

1 left over.

2 My point being, if you threw the notification
3 on each one of those pages and there was existing
4 space, isn't it true it wouldn't require any more
5 pages?

6 A It may not require more pages. I think what
7 I was trying to get to was our initial thing that we
8 support; we should only have to reflect a statement one
9 time in the bill and not on multiple pages of the bill.

10 Q Yes, I understand that and I respect that.

11 My question to you is would you be willing to
12 require, as to the technical possibility, of finding
13 out whether your current system is a simple computer
14 command, software command, could throw that warning
15 language on each of these pages; whether you agree to
16 do it or not, whether it's a possibility.

17 A I'd be more than happy to check on that.

18 Q Thank you.

19 MR. SMITH: If you're going to do that, would
20 you submit that as a comment after the hearing within
21 seven days?

22 Further questions, Mr. Renard?

23 MR. RENARD: Yes.

24 MR. McLEAN: I wonder how much more effort it
25 would be to ascertain the cost of putting it on every

1 page of the bill, in terms of the -- of your inquiry,
2 how much more effort that would take?

3 MS. MENARD: To put it on every page of IXC
4 charges versus just one time?

5 MR. McLEAN: Yes. I think I understand.
6 Every page of the bill if -- I have a 25-page bill,
7 what's the additional cost of putting it on every
8 single page, whether it applies to every single charge
9 on that page or not.

10 MS. MENARD: I would strongly object to that,
11 but --

12 MS. CASWELL: You're talking about putting it
13 on every page regardless of whether that page holds 900
14 charges or not.

15 MR. McLEAN: She was asked to make an
16 inquiry.

17 MS. MENARD: Yes.

18 MR. McLEAN: Is it a gigantic leap for
19 mankind to inquire as to the cost of doing that, too?

20 MS. CASWELL: Doing what?

21 MR. McLEAN: Putting it on every page; maybe
22 the letterhead, too, what the hell. See, there's a
23 resistance to telling these people what their rights
24 are.

25 MS. MENARD: I'm saying I don't object to

1 telling them their rights. I think we have had a lot
2 of discussion today how many times I should have to
3 tell them their rights in one piece of paper, one
4 section of paper they get in one envelope.

5 MR. McLEAN: Exactly, Mr. Twomey has asked
6 you to inquire to see how difficult it would be to put
7 it on every page where an IXC is mentioned. Correct?

8 MS. MENARD: Yes.

9 MR. McLEAN: I ask you to continue your
10 inquiry to determine whether it might even be less
11 expensive to put it on every page of the bill. You can
12 buy the form that way if you want to.

13 MS. MENARD: Except I have a supply I have to
14 use up.

15 MR. SMITH: Further questions?

16 MR. ERWIN: I want a clarification. Is that
17 on every page of the bill regardless of whether there
18 is a 900 number on there or not?

19 MS. MENARD: I think that's what Public
20 Counsel asked --

21 MR. McLEAN: You want to inquire.

22 MS. MENARD: On my local service page, the
23 page that only has local service charges, I would put
24 that on there.

25 MR. McLEAN: Asked to --

1 MS. MENARD: I would put that on there.

2 MR. McLEAN: You have been asked to inquire,
3 as I understand the question, what the expenses would
4 be for the difficulty of putting it on every page where
5 900 is mentioned. While you're at it, why don't you
6 inquire see what the expense is of putting it on every
7 page?

8 MR. TYE: That doesn't seem any more relevant
9 than asking the cost of posting it in every newspaper
10 in the state and taking out billboards on the
11 interstate.

12 MR. SMITH: If Ms. Menard can provide that
13 information and she's willing to do it, I think she's
14 entitled to do that, and it is relevant to the way that
15 the billing information is going to be put on the bill.

16 MR. McLEAN: Well, in all seriousness, it
17 might be cheaper if you would have it printed on there
18 to begin with. It probably just says something about
19 GTE.

20 MR. SMITH: Do you know that it wouldn't be
21 cheaper, Mr. Tye?

22 MR. TYE: No, sir. It just doesn't make any
23 sense in my view to put it on a bill that doesn't have
24 anything to do with 900 service, but I understand we're
25 in rulemaking.

1 MS. CASWELL: Can I have an additional
2 clarification, please? And this goes back to the
3 questions that Mr. Twomey asked Ms. Menard.

4 As I understood it, you asked her, or you
5 were getting at how much it would add to the cost of
6 putting on a bill page where there was extra space. Is
7 that all you are asking? Are we talking about just the
8 pages that have extra space on them, or are we talking
9 about, whether or not they have extra space on them, of
10 putting that notice on and maybe making the bill longer
11 in order to put it on those pages?

12 MR. TWOMEY: Okay, let me be real clear.

13 What I want to understand is whether your
14 current billing system is capable of adding the
15 prescribed language, not disconnecting local service
16 for nonpayment of 900 calling, on each page that IXC
17 language, or IXC charges would appear.

18 MS. CASWELL: Okay, so that might entail
19 additional pages.

20 MR. TWOMEY: Yes. Now, my primary concern is
21 finding out whether your system is capable of doing it.
22 My guess would be that, of course, it could. But I
23 want to find out if it's capable of doing it. I don't
24 really care a lot about what the cost is, but if you
25 know what the cost is, you know, if you want to assume

1 an extra page here and there based on the kind of
2 experience you have with multiple pages, fine, I will
3 be happy to get that.

4 MS. CASWELL: Thank you.

5 MR. TWOMEY: Thank you.

6 MR. SMITH: Okay. Are we -- Mr. McLean?

7 MR. McLEAN: Yes. The only thing I want to
8 add to that is to expand it to find out whether the
9 billing system will accommodate a statement on every
10 single page of the bill. It is my suspicion that it
11 might be cheaper to do it that way, and that is the
12 source of my concern.

13 MR. SMITH: Okay. Are there any further
14 questions of Ms. Menard? If not, United has a witness?

15 Mr. Poag?

16 (Witness Menard excused.)

17 - - - - -

18 MR. BERG: Yes, Mr. Poag.

19 BEN POAG

20 was called as a witness on behalf of United Telephone
21 Company and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. BERG:

24 Q Please give us your name and address for the
25 record.

1 A I am Ben Poag, United Telephone, Altamonte
2 Springs, Florida, Post Office Box 5000, 32716-5000.

3 I have just a couple of comments, really.
4 Our primary concern is very similar but somewhat
5 different from General Telephone's concern, and that is
6 being allowed time to actually implement the proposed
7 changes. We support the concept of providing the
8 information to the customers. We support the amended
9 proposed rule that the Staff has suggested this
10 morning. We would just like to be allowed the time to
11 implement that. It does require some billing changes.

12 In our petition, we requested that we be
13 given eight months. We have identified that there is
14 some work that we can already begin today. We've
15 started that work and we are now saying that we will
16 need six months.

17 I do have a bit of a concern, and I can't
18 quantify the differences, with the fact that we are
19 going down the road towards programming for the Phase I
20 rule, and that if we come along later in Phase II and
21 change it, that is going to require me to go back and
22 do some additional work. But that's something that I
23 don't know how to deal with. At some point in time,
24 depending upon what happens in Phase II, we may just
25 have to say that we've got to stop and wait and see how

1 this thing comes out and what it's going to cost to do
2 it now versus what it's going to cost to do it the
3 other way later.

4 I guess I'm concerned somewhat, too, with the
5 statement that somebody made earlier that nothing has
6 happened since the original petition was filed. I
7 think a lot of things have happened. I think a lot of
8 people have been to meetings, there have been
9 modifications, and, I guess, a lot of different
10 opinions. It even appears to me that there's even
11 different opinions within the State of Florida
12 government as to where this thing should come out.

13 Somebody else made a statement that customers
14 had the perception that if they didn't pay the entire
15 bill that their service would be terminated; I can
16 assure you that in United Telephone we do not terminate
17 customers for partial payments. In fact, in any case,
18 you would not terminate that customer because they
19 didn't pay that bill fully within the first month.
20 There is a process that goes with that. It's in the
21 Commission rules, and there would be a lot of
22 additional information to the customer, and many times
23 discussions, as to what might be the problem. And if
24 the problem turned out to be a nonregulated service,
25 then they clearly would not have the service

1 terminated.

2 That's basically all I have. We are just
3 asking for time. We're pretty much in support of the
4 rule.

5 MR. SMITH: Let me ask you a question on
6 something you said about nothing having been done and
7 that something had been done.

8 Has United made any particular efforts to inform
9 the public of this problem with 900 numbers and their
10 rights outside of this type of billing information?

11 (Pause) I mean, there has been a lot of --

12 MR. POAG: I believe we have sent out a bill
13 insert on it. I believe we have sent out a bill insert
14 on it, but I can't swear to that. It seems to me like
15 I have seen something, and I have seen most of the bill
16 inserts, but I don't recall that specifically. But,
17 again, too, you know, we inform customers daily through
18 our business office contacts about things and we, you
19 know, have made 900/976 blocking available. I think we
20 have one of the lower nonrecurring charges, and I am
21 not opposed to removing that nonrecurring charge to
22 provide the service to the customers.

23 MR. SMITH: But that is in response to
24 inquiries that you would tell them that the blocking is
25 available, and so on?

1 MR. POAG: I can't say that, but I would say
2 if we have a customer that has significant problems,
3 hopefully the service reps are doing that. I can't
4 swear to that, though.

5 MR. SMITH: Have any of the other companies
6 made any specific efforts to inform customers of their
7 rights outside of this type of approach?

8 MS. HARBER: I know that customers, when they
9 call to inquire about charges, we do offer blocking. I
10 think that we have -- and I can verify this later --
11 but we have included in some Southern Bell Tel news
12 about blocking, blocking services, but we have not done
13 a special insert.

14 MR. SMITH: Okay. Let's get back to the
15 questions of Mr. Poag. Let's go down the line.

16 MS. PEED: No questions.

17 MS. WINEGARD: No questions.

18 MR. SELF: No questions.

19 CROSS EXAMINATION

20 BY MR. TWOMEY:

21 Q Mr. Poag, would you be good enough to
22 summarize the billing problems, or your system problems
23 that would require six to eight months to bring your
24 company into compliance with this current rule
25 provision?

1 MR. SMITH: Before you answer that, does it
2 make it any easier for you in your billing program
3 modification that you would have the bill display the
4 message only on the section, as the Staff has proposed,
5 as opposed to each page?

6 MR. POAG: Yes. Yes, there is a substantial
7 difference. There's about a \$40,000 cost in
8 programming time to put it one time at the section
9 versus every page.

10 MR. SMITH: Thank you. Go ahead, sorry about
11 that.

12 MR. TWOMEY: Thank you.

13 Q (By Mr. Twomey) The question, though, what
14 is required -- let me start over.

15 How do you currently display 900 calls on
16 your customers' bills?

17 A They appear in the message detail section
18 with the toll calls, whether they are local, where they
19 would be in the local exchange section, and if they
20 were interexchange, they would be in the interexchange
21 portion.

22 Q So they are intermixed pretty much like
23 GTE's?

24 A Yes.

25 Q Let me ask you, to start, are you capable, is

1 your current computer system or billing system capable
2 of adding the notice, the no-disconnect notice, on each
3 page?

4 A I don't know.

5 Q Okay. Would you find out and let us know in
6 your written comments?

7 A Yes. Basically, the same request that you
8 gave them?

9 Q Yes.

10 A Okay, and with Public Counsel's modification
11 as well.

12 Q I'm sorry. The first question that I asked
13 you is what is the problem that is involved that would
14 take six to eight months to bring your company into
15 compliance with what on the surface appears to be a
16 relatively simple matter?

17 A This rule appeared to be relatively simple
18 when it started, too.

19 There are several parts to it. The first
20 part would be the separation of the 900/976 charges on
21 the bill. That has to be done for the local company as
22 well as the interexchange company. This is the portion
23 that we have already begun to work on and that's in
24 progress. The operations there include modifications
25 to ten billing programs, and each billing program is a

1 series of software programs which are interrelated and
2 necessary to set up the bill. These provide for,
3 actually, not only just establishing the bill itself
4 but for providing information that goes into management
5 reports as well.

6 In addition to that, there are six bill
7 format modules. The bill format modules are necessary
8 to create the separate section within the LEC and IXC
9 bill pages.

10 There are on-line programs that are required.
11 This gives us the capability, once we put these
12 modifications into the billing systems, to go in on a
13 local basis and make limited minor changes to some of
14 the wording, or things of that nature. It gives us a
15 greater flexibility.

16 Beyond the basic bill format and the bill
17 processing pages, or bill formatting changes, there are
18 the software enhancements that are necessary to do the
19 printing on the bill.

20 Now, I am not an expert on bills and I am not
21 a computer programmer, but at one point in time I had
22 an opportunity to look at a block diagram of a local
23 exchange company billing system computer program, and I
24 really think that, you know, for you to have a better
25 understanding of the complexities and the

1 interrelationships, that maybe, you know, some of your
 2 programmers could sit down with some of our programmers
 3 and they might sort of get a feel for it. But it's a
 4 little more complicated than it looks on the surface.

5 Q I appreciate that offer and that was getting to
 6 be my next question that is who could be back to that
 7 would that appear to us of necessity that to be that

8 A I don't know of course but it is a
 9 separate programming matter

10 Q But would you be willing to make them
 11 available to sit down and help educate us on this?

12 A Absolutely, yes.

13 MR. TWOMEY: Thank you.

14 MR. SMITH: Any further questions?

15 Yes, Mr. McLean.

16 CROSS EXAMINATION

17 BY MR. MCLEAN:

18 Q Mr. Poag, I asked the question of Southern
 19 Bell a while ago as to whether there was a perception
 20 -- the gist of the question was whether or not there
 21 was a perception in the community that if the customers
 22 did not pay their phone bill in its entirety that their
 23 service would be terminated, and you responded that
 24 that was not the case with United, that United wouldn't
 25 do that, or words to that effect.

1 A Well, and I did that because there are many
2 cases where customers do pay their bill in its
3 entirety. They may deny knowledge of a toll call, they
4 may have run up excessive tolls calls in a month and it
5 takes them a couple of months to pay off, we will work
6 out payment arrangements with them.

7 Q I understand.

8 A Okay. See, we have many situations where
9 customers will call in and they'll say, "Hey, we've got
10 a financial problem, my husband had to go into the
11 hospital, he's out a job, we've got a lot of other
12 bills but we need our telephone. Can you work
13 something out with us?" And we do that, and we do it
14 on toll calls. We've got a service connection charge
15 deferral program. We don't go out of way to cut our
16 customers off. We work real hard to keep them on line.

17 Q You once worked for Southern Bell, too?

18 A That's correct.

19 Q And recalling those years and the years
20 since, can you say with certainty that Southern Bell
21 doesn't terminate, that is Southern Bell or United,
22 never terminated a customer for that customer's failure
23 to pay for the yellow page services? (Pause)

24 A I cannot say that, and I might add that I
25 have been around for so long that the rules have

1 changed. And what we do today versus what we did many,
2 many years ago, and I don't know when the rules changed
3 precisely, there may have been cases -- in fact, I know
4 there were cases before yellow pages was basically
5 established as, and I won't call it a nonregulated, but
6 I'll say at least a nontariffed/nonregulated charges
7 service.

8 Q So the rules have changed since, for example,
9 you worked for Southern Bell. Do you whether a good
10 number of citizens in this state are of retirement age?

11 A Do I know that?

12 Q Yes.

13 A Yeah, and I'm getting closer myself.

14 (Laughter)

15 Q So that there might even be a preponderance
16 of them in the state of Florida?

17 A I don't believe there's a preponderance but I
18 believe that there's probably a substantial number.

19 Q Well, those that there are, do you know
20 whether they keep up with the changes in the rules and
21 regulations of the Commission as well as you do?

22 A Clearly, I would hope they don't. (Laughter)
23 But if they do, I hope they do it better than I do.

24 Q And to the extent that we might put this
25 warning on the bill, or disclaimer, however you want to

1 characterize it, wouldn't it help update them somewhat?

2 A Yeah. We're not opposed to putting the
3 message on the bill. Yeah, I'm in favor of it.

4 Q You're just opposed to putting it on there
5 too much?

6 A Yes, I'm opposed to putting it on too much.

7 Q Back in the days -- I don't think you ever
8 said for sure whether you did occasionally terminate
9 services for nonpayment of the yellow pages. Did you
10 say?

11 A I think I alluded to the fact that we
12 probably did but --

13 Q Would you know -- excuse me, go ahead.

14 A I think I alluded to the fact that we have
15 probably done it in the past but the rules have
16 changed.

17 Q Do you remember whether you ever also
18 reassigned those numbers while the customer was
19 complaining about that practice?

20 A I'm not familiar with any specific cases.

21 MR. McLEAN: Thank you, Mr. Poag.

22 MR. SMITH: Are there any further questions
23 of Mr. Poag?

24 Does anyone have any further comments or
25 questions? Yes.

1 MR. BERG: I would like to ask that you take
2 judicial notice of United's 976 tariff, Section 813 of
3 the tariff, Paragraph U.2.D, which prohibits United
4 from disconnecting service or denying service to a
5 client for nonpayment of 976.

6 MR. SMITH: We will take notice of that
7 section of the tariff.

8 Does anyone have any further comments that
9 they would like to make on the rule?

10 If not, then I think we can conclude the
11 hearing. The procedure after this will be that you can
12 submit any further written comments that you wish to
13 make within seven days, and that's what our rule
14 requires. I wouldn't have any problem if you wanted a
15 couple of more days, but let's decide now. Is seven
16 days adequate?

17 MR. BERG: When will the transcript be ready?

18 MR. SMITH: I'm assuming that the transcript
19 will probably take a couple of weeks or ten days, is
20 that correct?

21 REPORTER: We can have it ready in a week.

22 MR. SMITH: Okay, the transcripts will be
23 within a week.

24 MS. CASWELL: Could we have seven days from
25 the transcript, or would that be totally unreasonable?

1 MR. SMITH: Well, normally it's simply seven
2 days from the hearing.

3 MS. CASWELL: Well, could we have a couple of
4 extra days so we could push it into the week?

5 MR. SMITH: How does ten says sound?

6 MR. TWOMEY: That's more than seven.

7 (Laughter)

8 MR. SMITH: Three more, huh? I mean, I'm
9 only doing this thing because I don't want to delay the
10 process any more than necessary. If we wait two weeks
11 for a transcript, then seven days after that, there's
12 another month gone.

13 MS. CASWELL: If either way it's going to be
14 due next week, it's all the same to me. I'm only
15 saying this because I'm going to be away next week so,
16 you know, I can live with it if it's going to be seven
17 days but --

18 MR. SMITH: Well, let's make it ten days, and
19 we'll count off what that will be. Today is the 31st,
20 then the 10th would be on Saturday, so you can de facto
21 have two weeks and file it on the 12th, is that okay?

22 MR. TWOMEY: By the 12th.

23 MR. SMITH: By the 12th, yes. Any comments,
24 proposed changes to the language of rule, whatever you
25 want to file, get it to the Clerk by the 12th, make

1 your filing then.

2 Are there any further questions?

3 MS. PEED: After the comments are due, what
4 is the procedure after that?

5 MR. SMITH: The procedure after that is to
6 come up with a final recommended version of the rule
7 and propose it to the Commission.

8 MS. PEED: Do you have any idea as far as
9 when that recommendation would go to the Commission?

10 MR. SMITH: Yeah, I have a tentative schedule
11 that I had worked up. It looks like that I could get
12 the recommendation to them at least by the middle of
13 September. I have the 19th of September as the
14 recommendation date. And I think there has been one of
15 the Agendas canceled in September already so I'm not
16 sure that we could get it before then anyway. So that
17 would make it on like the October 1st Agenda.

18 Richard or Steve, do you know whether there
19 was an Agenda canceled? Someone was saying that this
20 morning but I don't know when it was, in September.

21 MR. BELLAK: Yes. The 20th Agenda has been
22 canceled.

23 MR. SMITH: Oh, okay.

24 MS. PEED: Okay. And, generally, if the
25 Commission approves the Staff recommendation and the

1 rule, as recommended by the Staff, what would be the
2 effective date of the rule?

3 MR. SMITH: Well, the effective date of the
4 rule is 20 days after it's filed with the Secretary of
5 State. If the Commission votes to approve the final
6 version of the rule, it takes at least seven days.
7 You've got to send it over to the JAPC and then file it
8 with the Secretary of State. You can't file it any
9 earlier than eight days, on the eighth day, and so on.
10 And you've got to have a couple of days to put it
11 together, and so on. So you're talking about a month
12 from the time the Commission votes to approve the final
13 version of the rule, the actual effective date of the
14 rule.

15 Anything further? Yes.

16 MR. SELF: Since there is, as I understand
17 it, no formal interventions granted in the docket, I'm
18 assuming that everyone that is here will serve copies
19 on everyone else.

20 MR. SMITH: Yes. I would like for you to do
21 that so that everyone will be informed of everyone
22 else's position. No, we don't normally grant
23 intervention in rulemaking because everyone has the
24 right to come forward and participate if they are
25 interested and affected in some way the rule.

1 Anything further? In that case, we will
2 adjourn, and thank you very much for coming.

3 (Thereupon hearing was adjourned at 11:25 a.m.)

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1 F L O R I D A)
2 :
3 COUNTY OF LEON)

CERTIFICATE OF REPORTERS

4 WE, CAROL C. CAUSSEAU, CSR, RPR and JOY KELLY,
5 CSR, RPR, Official Commission Reporters,

6 DO HEREBY CERTIFY that the hearing in the
7 captioned matter, Docket No. 910060-TP, was heard by the
8 Florida Public Service Commission at the time and place
9 therein stated; it is further

10 CERTIFIED that we reported in shorthand the
11 proceedings held at such time and place; that the same has
12 been transcribed under our direct supervision, and that
13 the transcript consisting of 95 pages, constitutes a true
14 and accurate transcription of our notes of said
15 proceedings; it is further

16 CERTIFIED that we are neither of counsel nor
17 related to the parties in said cause and have no interest,
18 financial or otherwise, in the outcome of this docket.

19 IN WITNESS WHEREOF, we have hereunto set our
20 hands and seals at Tallahassee, Leon County, Florida, this
21 5th day of August, A.D., 1991.

22 
23 CAROL C. CAUSSEAU, CSR, RPR

24 _____
25 JOY KELLY, CSR, RPR

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