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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Petition on behalf of CITIZENS)  
OF THE STATE OF FLORIDA to Initiate )  
Investigation into Integrity of )  
SOUTHERN BELL TELEPHONE & TELEGRAPH )  
COMPANY's Repair Service Activities )  
and Reports. )

DOCKET NO. 910163-TL  
920260-72

COPY

DEPOSITION OF: RICHARD BIRD  
TAKEN AT THE INSTANCE OF: Citizens of the State of Florida, by and through Jack Shreve, Office of Public Counsel  
DATE: Tuesday, July 28, 1992  
TIME: Commenced at 8:00 a.m. Concluded at 8:55 a.m.  
PLACE: 666 N.W. 79th Avenue Room 642 Miami, Florida  
REPORTED BY: JANE FAUROT Notary Public in and for the State of Florida at Large

ACCURATE STENOGRAPHY REPORTERS, INC.  
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APPEARANCES:

REPRESENTING THE SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY:

ROBERT G. BEATTY, ESQUIRE  
Southern Bell Telephone and Telegraph Company  
Museum Tower Building  
Suite 1910, 150 West Flagler Street  
Miami, Florida 33130

REPRESENTING THE CITIZENS OF THE STATE OF FLORIDA:

SUE RICHARDSON, ESQUIRE  
Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street  
Room 812  
Tallahassee, Florida 32399-1400

REPRESENTING THE FLORIDA PUBLIC SERVICE COMMISSION:

JEAN WILSON, ESQUIRE and  
STAN GREER, Class B Practitioner  
FPSC Division of Legal Services  
Florida Public Service Commission  
101 East Gaines Street  
Tallahassee, Florida 32399-0863

ALSO PRESENT:

WALTER BAER, Office of Public Counsel.  
CARL VINSON, FPSC Division of Communications.

\* \* \* \* \*

I N D E X

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WITNESS:

PAGE NO.

RICHARD BIRD

Direct Examination by Ms. Richardson  
Cross Examination by Mr. Greer

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CERTIFICATE OF REPORTER

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S T I P U L A T I O N S

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The following deposition of RICHARD BIRD was taken on oral examination, pursuant to notice, for purposes of discovery, for use in evidence, and for such other uses and purposes as may be permitted by the Florida Rules of Civil Procedure and other applicable law. Reading and signing of said deposition by the witness is not waived. All objections, except as to the form of the question, are reserved until final hearing in this cause; and notice of filing is waived.

\* \* \* \* \*

Thereupon,

RICHARD BIRD

was called as a witness, having been first duly sworn, was examined and testified as follows:

MS. RICHARDSON: Okay. Let's go ahead and get that established, that today's date is July 28th. It's Tuesday, and we're at present at Southern Bell headquarters in Miami. I guess headquarters is an appropriate term for this.

MR. BEATTY: It will certainly suffice.

MS. RICHARDSON: It will suffice.

Okay. And in the matter of appearances today, Sue Richardson is representing the Office of Public Counsel, and Walt Baer from that office is also

1 present.

2 MS. WILSON: I'm Jean Wilson on behalf of the  
3 Staff of the Florida Public Service Commission. With  
4 me is Stan Greer, who is a Class B Practitioner, and  
5 Carl Vinson, both members of the Commission Staff.

6 MR. BEATTY: My name is Robert Beatty. I am here  
7 on behalf of Southern Bell.

8 MS. RICHARDSON: Will Mr. Carver also be in  
9 appearance or --

10 MR. BEATTY: If, in fact, he does appear, then he,  
11 too, will appear on behalf of Southern Bell.

12 MS. RICHARDSON: Okay.

13 MR. BEATTY: Before we get started, let me just  
14 say that the parties to this deposition have agreed,  
15 and these comments pertain to all the depositions that  
16 will be taken today with the identical parties: That,  
17 number one, this depo and all others are taken pursuant  
18 to proper notice; number two, that without the witness'  
19 agreement, no party will go off the record; number  
20 three, we will save all objections, except as to form;  
21 and, number four, that the witness, none of the  
22 witnesses, will waive reading or signing.

23 Now, let me just say before the questions begin  
24 that these depositions are taken, I believe, pursuant  
25 to Public Counsel's notice, is that correct?

1 MS. RICHARDSON: That's correct.

2 MR. BEATTY: That the parties have heretofore  
3 agreed that there is a privilege or two privileges, the  
4 attorney/client privilege and the attorney work product  
5 privilege, both which have been established in this  
6 proceeding by virtue of the investigation, the internal  
7 investigation conducted by Southern Bell. And the  
8 parties have agreed to recognize that those privileges  
9 exist and that they will be honored in the context of  
10 these depositions, this and all the others. And, thus,  
11 if you in your comments, and in answering the various  
12 questions that are posed to you will avoid disclosing  
13 anything regarding the substance of that investigation,  
14 it will be appreciated. Okay.

15 MS. RICHARDSON: Okay. I just want to add an  
16 addendum to that. We have not agreed that they exist.  
17 We are contesting the existence of those privileges.  
18 We have not objected, however, to your raising the  
19 objection of privilege within the context of these  
20 depositions and instructing the witness not to answer  
21 based upon that objection.

22 MR. BEATTY: Very good. Very good.

23 MS. RICHARDSON: But I just wanted to make sure  
24 that we understood that one, we have not agreed they  
25 exist, the privileges exist, okay?

1 MR. BEATTY: Very good. You can proceed.

2 MS. RICHARDSON: Okay. Thank you.

3 Mr. Bird, I have just a few introductory  
4 definitions and terms that I would like to get clear on  
5 the front end before we begin our discussion.

6 The first one is, "I don't know." If you respond  
7 to me, to any question I ask with the words, "I don't  
8 know" or if I ask you, "Do you know," and you say a  
9 flat out, "No," to me, that means that you have  
10 absolutely no knowledge, firsthand knowledge, personal  
11 knowledge, experience, any secondhand knowledge, from  
12 rumor, from gossip, from hearsay, from talking to other  
13 people, from observing whatever may go on. Say an  
14 event takes place and then you hear something later and  
15 it sorts of clicks in your mind and you connect the  
16 two, that, to me, is knowledge. "I don't know" is not  
17 an appropriate response for any of those kinds of  
18 things. Do you understand that?

19 THE WITNESS: Uh-huh.

20 MS. RICHARDSON: All right. And it is pretty much  
21 the same thing for "I don't remember" or "I can't  
22 recall." If you tell me that you don't remember or you  
23 can't recall or you respond "no," to a question where I  
24 might ask you, "Do you remember" or "Do you have any  
25 knowledge of or memory of these things happening," what

1           you're saying to me by saying "no" or "I don't  
2           remember," is your mind is an absolute blank. There  
3           are no fragments out here floating around, that --  
4           little ticklers of memory hanging out here. Okay. Do  
5           we understand that?

6           THE WITNESS: Yes.

7           MS. RICHARDSON: All right. Then also there will  
8           be times when I ask you questions that are sort of  
9           general in nature, "Do you know of anyone or do you  
10          know any employee, that has done this, that, or the  
11          other." When I say that, I am including you, yourself,  
12          as well as any other person. So any response you give  
13          me is always representing you, yourself, as well, in  
14          any action or omission to act, as well as any other  
15          person that you may be thinking about or not thinking  
16          about. Is that clear?

17          THE WITNESS: Yes.

18          MS. RICHARDSON: Okay. Do you have any questions  
19          before we start?

20          THE WITNESS: No.

21          MS. RICHARDSON: All right. I guess --

22          MR. BEATTY: Let me raise just a general  
23          objection, not necessitating any further discussion  
24          necessarily, but an objection to the fact that what  
25          your instructions seek to do is displace his

1 understanding as to how he responds with yours. And to  
2 the extent that I believe that that is inappropriate, I  
3 will object.

4 MS. RICHARDSON: And you'll voice that objection  
5 in the record? I don't want --

6 MR. BEATTY: I understand.

7 MS. RICHARDSON: Otherwise, we need to come to  
8 some kind of agreement on this. If he is not going to  
9 agree with me what these terms mean, then I need to  
10 have a definition from him before we start. Otherwise,  
11 it's going to be an option later on to say, "When I  
12 said I don't know, even though I agreed to that  
13 definition to begin with, I didn't really mean that."  
14 That is what I'm trying to get clear ahead of time.

15 MR. BEATTY: I'm not instructing him not to  
16 answer, or not to respond, or not to do anything else.  
17 I'm merely indicating that to the extent that your  
18 definition of terms differs from his then, obviously,  
19 his definition of terms, which will have to be  
20 clarified if you deem that to be appropriate, when you  
21 ask the questions. His definition of the terms is what  
22 must control, because, obviously, he is the person  
23 being deposed.

24 MS. RICHARDSON: I understand that. But we've  
25 agreed on the front end what "I don't know means" or "I

1 don't remember." Anything else will be under his --  
 2 under this terms. Now, if he needs to explain an "I  
 3 don't know" answer or an "I don't remember" answer  
 4 that's different from the definition we just agreed on,  
 5 then he is certainly welcome to clarify, and I am not  
 6 going to cut him off. He can clarify and expand on it  
 7 or whatever else he needs to do.

8 MR. BEATTY: The nature of the agreement, though,  
 9 I guess, is what is problematical in the sense that  
 10 there is no agreement. There is your expression of  
 11 your understanding of what those various terms mean.  
 12 And to the extent that he responds accordingly, that is  
 13 fine. I just want the record to be very clear that  
 14 your comment regarding the various definitions that you  
 15 have discussed are, again, your understanding of what  
 16 those terms mean. And so to the extent that you ask  
 17 him a question that needs further clarification from  
 18 you because he raises -- because he responds in a way  
 19 or not, you know, you can certainly pursue that with  
 20 your questions. I just want to make very clear that  
 21 your expression of your expectation of how he defines  
 22 your terms in the context of this deposition is just  
 23 your interpretation.

24 MS. RICHARDSON: Okay. Let me ask you this, Mr.  
 25 Bird, if you respond to me, "I don't know," what do you

1 mean by that?

2 THE WITNESS: I don't know.

3 MS. RICHARDSON: Can you clarify that?

4 THE WITNESS: In other words, I'm telling you that  
5 I don't remember anything. I don't know. I can't  
6 answer your question. As far as I would be concerned,  
7 if I said, "I don't know," I don't know. I can't give  
8 you any information because I don't know to give you  
9 the information. In other words, the information that  
10 you would be asking or that you want.

11 MS. RICHARDSON: Okay. And when you say, "I don't  
12 know," are you separating information from stuff that  
13 you have firsthand knowledge of?

14 THE WITNESS: If I know, I will tell you that I  
15 know, you know, firsthand, secondhand or whatever, I  
16 don't know. If you ask me a question and I say that I  
17 don't know anything about it, that means I don't know  
18 anything about it. I can't --

19 MS. RICHARDSON: Absolutely nothing about it.  
20 Okay. Then we are in agreement on what that means.  
21 What about "I can't remember" or "I can't recall"? How  
22 do you define those terms?

23 THE WITNESS: Basically, the same thing. If  
24 you're asking me a question and I don't recall. In  
25 other words, I don't remember anything about it, I

1 can't give you an answer because I don't know. In  
2 other words, if I know something about it, I will tell  
3 you that I can vaguely remember something or I don't  
4 remember. As far as I'm concerned, I don't know  
5 anything about it. I can't tell you because I can't  
6 recall it.

7 MS. RICHARDSON: Okay. Great. Then, I think you  
8 and I understand each other, and I think that's what  
9 matters. Now, let me see if we can just get some  
10 general things down on the record.

11 DIRECT EXAMINATION

12 BY MS. RICHARDSON:

13 Q Would you please state your name for the court  
14 reporter and spell your last name for her, please?

15 A Richard Bird, B-I-R-D.

16 Q And your address?

17 A

18 Q Is that --

19 A That's my home address.

20

21

22

23 please tell me what your present position is?

24 A Assistant manager.

25 Q In which IMC?

- 1           A     I'm not. I'm in the Construction Department.
- 2           Q     You're in the Construction Department at this time
- 3 where?
- 4           A     North Dade.
- 5           Q     In North Dade.
- 6           A     Uh-huh.
- 7           Q     And how long have you held this position?
- 8           A     Probably about seven years.
- 9           Q     And what did you do prior to this?
- 10          A     Just cable repair foreman.
- 11          Q     And for what period of time?
- 12          A     About a year or two.
- 13          Q     And where was that?
- 14          A     North Dade.
- 15          Q     North Dade. When did you start working for
- 16 Southern Bell?
- 17          A     1973.
- 18          Q     And what was your entry position?
- 19          A     ST.
- 20          Q     And that is a service technician?
- 21          A     Yes, service technician, installer/repairman.
- 22          Q     Installer/repairman, so did you do any customer
- 23 trouble repair while you were an ST?
- 24          A     Uh-huh.
- 25          Q     You did that also, as well as install new service?

1 A Yes.

2 Q All right. And as a cable repairman?

3 A Repair foreman.

4 Q Repair foreman. What were your duties as a cable  
5 repair foreman?

6 A To restore cable, you know, troubles that were  
7 sent to the bridge, my craft people would go out and clear  
8 them or cable failures, or whatever. We would be out there,  
9 redo it, fix it and rebuild plant.

10 Q All right. And how did you receive word that  
11 something needed to be fixed? How did that come to you?

12 A A lot of stuff I could pick up off of the trouble  
13 reports that my guys closed out. I would know if there was  
14 a bad plant, and investigate it, and cut it around. But  
15 most of the stuff the guys would be dispatched by the test  
16 center.

17 Q All right. And was it part of your responsibility  
18 to do the dispatching?

19 A No.

20 Q Was it part of your responsibility to manage the  
21 force-to-load in order to make sure that the trouble repairs  
22 were handled on time?

23 A No.

24 Q In your responsibility as a cable repair foreman,  
25 did you work with the clearing and closing of the customer

1 trouble reports?

2 A No.

3 Q So, then if I am understanding what you're telling  
4 me, is you were strictly involved in the actual hands-on  
5 managing or supervising, the actual hands-on repair work for  
6 the cable itself?

7 A Right.

8 Q All right. But you received the customer report,  
9 trouble report information in order to decide who needed to  
10 go out and where they needed to go?

11 A The craft people would get it from the test  
12 center.

13 Q From the test center?

14 A Right.

15 Q And when they closed cable repair out, were you  
16 aware of the clearing and closing? Did you have anything to  
17 do with that process at all, then?

18 A No. I would just, you know, some that -- if they  
19 were too long on a trouble, I would go out there and see  
20 what the problem was. That was it.

21 Q All right. And how would you know that they were  
22 too long on a trouble?

23 A I would be called.

24 Q By?

25 A By the bureau, the test center.

1           Q     The test center. So, your employees, then, after  
2 you sent them, you basically had nothing else to do with  
3 those employees, because everything they did went back to  
4 the test center?

5           A     Right.

6           Q     Are you familiar with the TRACKER program?

7           A     No.

8           Q     The cable repair program where cables can be  
9 attached and detached and lumped together, customer service  
10 reports?

11          A     Vaguely, yes.

12          Q     All right. Are you familiar with MAPPER, MAPPER  
13 Assigner?

14          A     I'm not real familiar with it, but I vaguely know  
15 what you're talking about.

16          Q     Okay. Were these programs in existence at the  
17 time that you were a cable repair foreman?

18          A     No.

19          Q     How did you manage force-to-load in those days?

20          A     We just went out on the troubles, and if they kept  
21 going, they kept clearing them. That's it. As far as, you  
22 know, guys kept calling and picking up another one and keep  
23 going. You had so many bodies. We had like four or five  
24 cable repair groups.

25          Q     For all of North Dade?

1           A     Uh-huh.

2           Q     What happened when there was a major cable  
3 failure? How was that handled?

4           A     I would be notified, and I would have to go out  
5 and see exactly what would be -- what I needed to restore  
6 it, how many bodies I would need out there to restore it,  
7 and cut around, replace the cable, whatever needed to be  
8 done.

9           Q     Was there any inside testing that you had access  
10 to to determine the size of the break, or the failure, or  
11 how many troubles or how many phones might have been  
12 affected?

13          A     We found that out. When we are out there, we can  
14 tell by the size of the cable. We have plats. We'd look it  
15 up and see the size of the cable. I couldn't tell you how  
16 many reports are in it. We just know the size of the cable.

17          Q     All right. And by knowing the size of the cable,  
18 could you estimate how many phones might be affected?

19          A     No. The only thing we could do, we'd give the  
20 count to the bureau, so they could status it and know that  
21 there would be a failure there. Because you can have a 900  
22 pair cable and only have one worker in it.

23          Q     I'm totally unfamiliar with the actual wiring in  
24 that end of it. Could you explain it a little bit more  
25 about a 900 cable and one worker or one problem in it? I

1 don't quite follow that.

2 A A 900 pair cable is the size of the cable. Okay.  
3 Or it could be a --

4 Q And that is about six inches in diameter, is what  
5 you're telling me?

6 A Yes, probably, about, depending on the gauge. And  
7 one worker, in other words, it could be one telephone or it  
8 could be a brand new construction area and the cable got  
9 cut, and you would have only the one number. We wouldn't  
10 know how many is in there. As far as we are concerned, a  
11 cut cable is a cut cable, and we try to restore it as soon  
12 -- as fast as possible.

13 Q If a cable is cut, and I assume "cut" means like  
14 if I took a pair of scissors and I actually cut through a  
15 ribbon." Is that your definition for "cut"?

16 A Yes, cut, any type of damage, sheath break.

17 Q Sheath break. All right. If a cable is cut, does  
18 that mean that a phone is definitely out-of-service?

19 A No.

20 Q All right. If we cut the line all the way  
21 through, the phone would still have some kind of service?

22 A It depends. If the customer is served before that  
23 cut, and it was cut clear, it would still be in service.

24 Q Okay. Well, let me digress to something else  
25 here. Who was your supervisor at that time?

1           A     I am trying to think of his name. Right now I  
2 can't remember. Donaho, Mr. Al Donaho.

3           Q     D-O-N-A-H --

4           A     O, yes.

5           Q     And was he a first level, second level manager?

6           A     Second level.

7           Q     And you were a first level manager at that point?

8           A     Yes.

9           Q     Okay. During that time, were you familiar with a  
10 service quality? Did you have any rules or guidelines that  
11 the Company required cable to be fixed within a certain  
12 amount of time, to have problems cleared up within a certain  
13 amount of time?

14          A     No, not to the extent of that. We would have a  
15 thing like you had to -- roughly we would say a cable  
16 repairman had to clear approximately two troubles a day.

17          Q     Okay. So, it was --

18          A     Two tasks.

19          Q     Two tasks a day. All right.

20          A     Cut cable was just as fast as you could restore  
21 it.

22          Q     What happened if they couldn't clear it or restore  
23 it in 24 hours, and they had -- let's say it took 30 hours?

24          A     All we do is give the test center, the bureau, the  
25 estimated time that it would take. And as far as the

1 outside, that is all we did, is restore it as fast as  
2 possible. And once we got it restored, we'd call the bureau  
3 and tell them it was completed.

4 Q All right. And if it wasn't completed within 24  
5 hours?

6 A We'd let them know what the progress is.

7 Q Okay. Are you familiar with a requirement, a rule  
8 requirement from the Public Service Commission that Southern  
9 Bell works under that requires customer service to be  
10 restored within 24 hours, if their service was  
11 out-of-service?

12 A Right.

13 Q You are familiar with that?

14 A Uh-huh.

15 Q Did that apply when you were a cable repair  
16 foreman?

17 A As far as I know, it always applied within the  
18 Company. We can only do the best that you can do, you know.

19 Q I'm not arguing with that. Okay. Did your  
20 supervisors ever make a point with you, if a cable went out  
21 over 24 hours, if you were unable to clear something without  
22 -- outside of 24 hours, did your supervisors or managers  
23 ever talk to you about any particular trouble or why it took  
24 so long?

25 A No, because they were involved with it from the

1 beginning to end. They knew what the problem was. We just  
2 had to keep all the sources notified, you know, what time we  
3 would have it restored, so when the customers called in,  
4 they would let them know.

5 Q Do you recall any major cable breaks that occurred  
6 in the North Dade area while you were a cable repair  
7 foreman?

8 A No, not that I can remember, nothing real major as  
9 far as I can --

10 Q Okay. Who is your present supervisor?

11 A Right now I'm working for Tom Langen.

12 Q L-A-N-G-D-O-N?

13 A L-A-N-G-E-N.

14 Q And who is his supervisor? What is one level  
15 above him?

16 A The next one is Mr. Ralph De La Vego.

17 Q De La Vego. And you're presently -- remind me  
18 again what your present position is?

19 A Construction.

20 Q Construction engineer?

21 A No, I'm outside. I turn up all the digital loop  
22 electronics, fiber-optics multiplexers, maintain them and do  
23 routines and turn up of all the fiber-optic systems in the  
24 North Dade turf.

25 Q Are you also working at installing, is that part

1 of your -- fiber-optics, is that part of your duties, as  
2 well?

3 A Right.

4 Q Installing new fiber-optics?

5 A Correct.

6 Q You're using one set of -- turn up means install  
7 new? Install new --

8 A Turn up is new, right, and I maintain the  
9 existing.

10 Q And maintain existing. So in your present  
11 position you have, or do you have any responsibility for  
12 repair?

13 A Yes.

14 Q You do. In terms of specific customer trouble  
15 reporting, do you have any repair responsibilities?

16 A Partly, yes.

17 Q And can you explain what those are?

18 A My people still work maintenance troubles,  
19 individual troubles. When the load is heavy, they are  
20 loaned to the maintenance side of the house to work  
21 individual troubles, cable troubles. Also, if there is a  
22 failure in the fiber-optic system, we turn it up and fix it.

23 Q All right. And how do they know that they have to  
24 work these troubles, how does word come to them that they're  
25 supposed to work these troubles?

1 A They are dispatched by the test center.

2 Q By the test center.

3 A Uh-huh.

4 Q And does that go through you at all or does the  
5 test center just pull your people out?

6 A Most of them have CAT terminals.

7 Q Okay.

8 A And they just go in, and they are dispatched  
9 regularly by -- our OPCC says, "Okay, so many people go to  
10 maintenance today," they go.

11 Q OPCC is?

12 A That is my outside plant control center.

13 Q Do you have any supervision responsibility for  
14 your employees who are out working cable troubles or service  
15 restoral troubles?

16 A Yes.

17 Q And what are those responsibilities?

18 A Mine is to eliminate any kind of roadblocks that  
19 they have.

20 Q Eliminate roadblocks?

21 A In other words, if they have got a problem, you  
22 know, if I need to give them a piece of cable, get them a  
23 piece of cable, whatever they need to restore service.

24 Q All right. And are you also responsible, then,  
25 for attempting to meet that 95 percent cleared within 24

1 hours requirement, having your people meet that and be aware  
2 of it, constantly aware of it?

3 A I'm not even -- really, my people are not even  
4 aware of that. My concern is just getting people back into  
5 service by the commitment time.

6 Q Okay. Do you track commitment times on the  
7 troubles?

8 A They are written down when they were dispatched.  
9 They are on the trouble report. They are given at that  
10 time, and they take them out of their CAT terminals and  
11 write it down.

12 Q Okay. And do you monitor that for your people  
13 that are out working troubles?

14 A I don't monitor it.

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24 Q When you were a cable repair foreman?

25 A No, I worked inside.

1 Q When you worked inside?

2 A Uh-huh.

3 Q And what was your work inside?

4 A I worked inside the maintenance bureau.

5 Q As a test desk man?

6 A No, I was a supervisor.

7 Q As a supervisor. First level?

8 A Yes.

9 Q And who did you supervise?

10 A Craft people.

11 Q And what was their responsibility?

12 A It varied, screening, testing. It depends, you  
13 know, for the time frame that I was in there.

14 Q Is that customer troubles, the whole process of  
15 the customer calls in, phone doesn't work, and then that  
16 whole screening and clearing and closing process?

17 A Right. The screening is where the reports come  
18 in, and then you send them out to be dispatched. That is  
19 it. You don't close them out.

20 Q All right. At that point in time, were those  
21 troubles tracked manually, everything was written down  
22 manually?

23 A Right.

24 Q Was the LMOS system in place at that point? Did  
25 you use LMOS at that point?

1           A     LMOS was there also.

2           Q     Was there also.  But when it went down or  
3 something went wrong, then you also had the manual process?

4           A     Right.  We were just cutting at that time frame.

5

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7

8           A     There was no real -- nobody could give me a  
9 general statement.

10          Q     You asked, though, why?

11          A     Yes.

12          Q     And what were you told?

13          A     I was given no answer.

14

15

16          A     Yes and no.

17          Q     I would like an explanation for that.

18

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24          A     In other words, what I am saying is this:  I'm  
25 just saying that -- how do I put this?  I believe that they

1 just -- what do you say? What I'm trying to say is I think  
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15 that we were told that not to status an out-of-service  
16 because the outside forces would be the one, when they close  
17 them out, would tell you whether or not they are  
18 out-of-service. And that was a trial and it lasted for  
19 three days, because they missed so many out-of-services.  
20 Q And by missing the out-of-service, you mean you  
21 missed that 95 percent index?  
22 A (Witness indicating yes.)  
23  
24  
25 could close out a report unless the supervisor saw them.

1 And I said, "That is true." That lasted for a couple of  
2 days also. The reason being is that the craft people closed  
3 them out. We didn't close them out. The craft people  
4 closed them out. The manager went behind them and watched  
5 them close it. What was happening, is that we had the  
6 paper. We weren't paperless. They would take down and  
7 write the information that they got from the craft people  
8 and the time, and they would let the report sit on top of  
9 their tubes. And at the end of the day, they would close  
10 them. But when they closed them, they would push the  
11 computer time. They wouldn't type in the time that was  
12 written down there by the -- when they closed them out with  
13 the craft person throughout the day. So, we just made sure  
14 they typed them in, because all the craft people were doing  
15 is a short cut. All they had to do was just put the last  
16 line of entry, and it took the computer time instead of the  
17 time that the craft person closed them out. And that lasted  
18 a couple of days, and that was it.

19 Q And lasted a couple of days sounds to me like  
20 somebody thought that was a problem.

21 A It was a problem.

22 MR. BEATTY: Objection to the form.

23 BY MS. RICHARDSON:

24 Q That's fine. Would you answer the question?

25 A Yes, it was a problem, because we would look at

1 the reports, the reports that were closed out, and we would  
2 match them with missed commitments, or jeopardies. And we  
3 would see that they didn't match, what was in the computer  
4 and what was on the paper. So, making craft aware that we  
5 didn't want them, they should be closing out exactly what  
6 that craft person told them outside, not because you're lazy  
7 and you just let the time go and that is why we were missing  
8 so many appointments.

9 Q Okay. And were there any other accusations made?

10 A Those are the only two that I can remember.

11 Q So, we had not statusing -- we had affecting  
12 services that were not being statused out-of-service --

13 A We statused nothing out-of-service.

14 Q -- as one accusation. We had another accusation  
15 that said that no one could close without getting a manager  
16 approval?

17 A Yes.

18 Q Do you know of anyone or have you ever told anyone  
19 that they should call a manager in order to close a report,  
20 before closing the report?

21 A No, it was just that I think the statement I told  
22 everybody in the bureau, you know, is that -- see, you had  
23 four managers in the bureau. So, you know, when they went  
24 to close one up, they had a pile of them.

25 Q So, closing was left for the end of the day, then?

1           A     Well, a lot of them they did them while they were  
2 going on, but a lot of people didn't. They would let them  
3 pile up, and then at the end, you know, so many reports  
4 there, and then they would just take the time of the  
5 computer and not the time that these guys had closed them  
6 out throughout the day.

7           Q     All right. Do you know of anyone who, and this  
8 includes yourself, who has ever used a dummy employee code  
9 number for statusing a trouble report?

10          A     No, I haven't.

11          Q     What about an unassigned employee code number in  
12 statusing or handling a trouble report?

13          A     No.

14          Q     What about using someone else's employee code  
15 number for statusing?

16          A     No.

17          Q     Do you know anyone -- let me give you an example,  
18 sort of a hypothetical situation. And I will repeat the  
19 word hypothetical for the record. Okay. You have a  
20 repairman, an ST outside working on the trouble. And he  
21 calls in to clear a report out, and he tells the MA, "Well,  
22 I cleared this at 1:15." And the MA is told to respond to  
23 the ST, "Well, you know, 1:00 was the 24-hour point. ST,  
24 1:00, I just want to remind you 1:00 was the 24-hour point.  
25 Are you sure that you had dial tone at 1:15?" And the ST

1 pauses and thinks a minute and says, "Well, no, you'd better  
2 make that 12:50. I think I was a little late maybe calling  
3 this in. I probably did restore that at 12:50." Do you  
4 know if that has ever occurred or something similar to that  
5 situation?

6 A Not that I can remember, no.

7 Q Okay. Do you know if MAs were ever instructed to  
8 or service techs who called in to close out a report or  
9 clear a report?

10 A No.

11 Q To question them as to when they actually cleared  
12 and whether or not they are just calling in after lunch,  
13 maybe, instead of at the time it cleared?

14 A No.

15 Q Do you know of anyone who may have altered the  
16 clearing time on a trouble report?

17 A No.

18 Q Okay. Do you know of anyone -- and "know" means  
19 any fragments of information out there that you may have, in  
20 addition to direct and personal knowledge, any rumors you  
21 may have heard or any hearsay -- that has falsified a  
22 customer trouble report?

23 A I have never saw anybody do it.

24 Q All right. Have you heard of anyone falsifying a  
25 customer trouble report?

1           A     There have been rumors, you know, but I have never  
2 physically saw anybody do it.

3           Q     All right. And where have you heard these rumors?

4           A     When I was in the bureau.

5           Q     And would you give me a date for that?

6           A     Back in the early '80s.

7           Q     In the early '80s. Can you tell me who you heard  
8 the rumors from?

9           A     Craft people.

10          Q     All right. People that you worked with?

11          A     Yes.

12          Q     Can you give me any names?

13          A     No, I couldn't.

14          Q     These rumors that you heard, can you --

15          A     Well, what I am saying is rumors, I mean, the  
16 craft people would say, you know, "This guy is doing this,"  
17 or whatever, but I never saw anything.

18          Q     But you never saw anything?

19          A     No.

20          Q     Okay. And "doing this," what kinds of things  
21 would they say were being done?

22          A     They would say -- the only thing that they would  
23 say was that the manager was changing a commitment.

24          Q     In what fashion, in what way? Does that mean  
25 changing a commitment without contacting the customer that

1 the commitment was being changed?

2 A That is all they'd say. That's it. Just a  
3 general statement saying change the commitment. There is no  
4 -- like I'm saying, you're asking me to say something that I  
5 don't know. In other words, the manager could have -- maybe  
6 the manager contacted the customer or had people to do it.  
7 I don't know. You're just asking me have I ever heard, and  
8 I'm just saying what the craft people say.

9 Q All right. Have you heard, or do you know of  
10 anyone, including yourself, who has ever used a no access  
11 status to stop that commitment time or the repair clock  
12 time?

13 A No.

14 Q Do you know of anyone who may have used, or have  
15 you heard of anyone, who may have used a no access code  
16 without actually going to the premises?

17 A No.

18 Q Do you know of anyone, or have you heard of  
19 anyone, including yourself, who may have changed a  
20 commitment time improperly or falsely?

21 A No.

22 Q How about changing the commitment time to stop the  
23 clock?

24 MR. BEATTY: Objection to the form of the  
25 question.

1 BY MS. RICHARDSON:

2 Q Do you know of anyone, or have you heard of  
3 anyone, who may have changed the commitment time to stop the  
4 clock?

5 A I've never even heard of it, no.

6 Q Okay. Have you heard of anyone, or do you know of  
7 anyone -- and this, again, includes yourself -- who has  
8 taken out-of-service reports and closed them to test okay?

9 A No.

10 Q And I am assuming that you know what test okay  
11 means.

12 MR. BEATTY: Objection to the form of the  
13 question.

14 BY MS. RICHARDSON:

15 Q Do you know what test okay means?

16 A Yes.

17 MS. RICHARDSON: I didn't quit get the last part  
18 out, Mr. Beatty, but that's fine. I'm glad to see  
19 you're right in there with me.

20 MR. BEATTY: Well, I try to be.

21 MS. RICHARDSON: Right.

22 BY MS. RICHARDSON:

23 Q Do you know of anyone who has, or have you heard  
24 of anyone who has stasured affecting service reports as  
25 out-of-service in order to build that base and meet the 95

1 percent index?

2 A No.

3 Q Do you know of anyone -- well, let me back up and  
4 rephrase this to begin with. Are you familiar with  
5 disposition codes and cause codes?

6 A Some of them, yes.

7 Q In a general nature, do you know what -- I don't  
8 mean like do you know what 430 means as a disposition code,  
9 but do you know what they are used for?

10 A Right.

11 Q All right. And I guess, for the record, would you  
12 tell me what a disposition code does and what its purpose  
13 is?

14 A Disposition code is you're telling me what you  
15 found out in the field wrong with it. The cause code is  
16 what caused the problem. In other words, effective plant,  
17 employee or whatever is your disposition and cause codes.

18 Q All right. And then these codes are used to close  
19 out customer trouble reports?

20 A Right.

21 Q Correct?

22 A Uh-huh.

23 Q All right. Have you heard, or do you know of  
24 anyone, including yourself, who may have used disposition  
25 and cause codes to close out a trouble report that would not

1 be counted in that 95 percent repair index?

2 A No.

3 Q Do you know of any disposition and cause codes  
4 that are excluded, basically, from that repair index?

5 A The only that would be excluded from the -- you're  
6 talking about an excluder report?

7 Q Uh-huh.

8 A Back when I was there, the only thing that would  
9 be excluded was service orders that were due that day, up to  
10 5:00.

11 Q Okay. And this is before 1984?

12 A Yes. There was a separate bureau, and we'd call  
13 them when there was a service order that was due, and they'd  
14 said, "Yes, okay," because they had until 5:00 o'clock to  
15 install it. After 5:00, it belonged to us. It was not an  
16 excludable.

17 Q What about if the cause of the failure was a  
18 hurricane?

19 MR. BEATTY: Objection to the form. It's not a  
20 question.

21 BY MS. RICHARDSON:

22 Q If the cause of the failure was a hurricane, and  
23 the person, the repair person had gone out and found a  
24 problem and closed that particular report out to a cause  
25 code that was hurricane, would that particular report be

1 excluded from being counted in that repair index?

2 A I really don't know.

3 Q You don't know. Okay. Do you know of any other  
4 means that may have been used by you or anyone else to build  
5 the out-of-service base in order to meet that 95 percent  
6 index?

7 A No.

8 Q Do you know of any other way of excluding an  
9 out-of-service report?

10 A No, this is the only one that I know of, no.

11 Q All right. And final status, when you have a  
12 final status screen --

13 A Uh-huh.

14 Q -- do you know what that is on closeout?

15 A Yes.

16 Q And there is an X, a place for an X to be loaded  
17 on final status on that final line?

18 A I don't remember that, no.

19 Q On final status on the screen, there is a place  
20 for a date?

21 A Uh-huh.

22 Q There is a place for a time, and there is a place  
23 to put an out-of-service indication there?

24 A I don't remember. But, yes, go ahead, whatever.  
25 I really don't remember.

1 Q You don't remember?

2 A No.

3 Q Okay. Then let's skip that. What happens when  
4 the Company misses a commitment time, Mr. Bird?

5 A What happens when the company missed a commitment  
6 time? We have objectives that we are allowed to miss, so  
7 many missed commitments, and you missed a commitment.

8 Q Do you have other objectives, personal objectives  
9 that you get credit for or get counted off for on  
10 evaluations?

11 A Today, no. Going back then I -- you know, back  
12 then I don't think we had -- missed appointments were a  
13 commitment. The report rate was a commitment. I couldn't  
14 remember what the other ones were. I don't think that was  
15 even a  
16 commitment.

17 Q Okay. Are you eligible for bonus pay for team  
18 incentive awards?

19 A Am I?

20 Q Yes.

21 A Yes.

22 Q You are. And do you know what those are based on  
23 in terms of your performance? What do you have to do in  
24 order to meet that team incentive award in order to get your  
25 bonus pay?

1 MR. BEATTY: Are you talking about today?

2 BY MS. RICHARDSON:

3 Q Today would be fine.

4 A Today it's a completely different type of arena.  
5 They just come out with a new plan totally and a lot of  
6 that --

7 Q Since when, can you give me a date on that? I'm  
8 sorry I interrupted you, but --

9 A No. Probably within the last month or two. And  
10 like I said, you know, they are redoing the plan this year,  
11 so --

12 Q Well, prior to the new one, then?

13 A Prior to the new one, a lot of that was how you  
14 did your job. And it was up to your -- all the second  
15 levels within the turf and your operations manager would  
16 have a meeting and go over your results and how you were,  
17 you know, how you did your job.

18 Q Was the out-of-service 95 percent repair index  
19 counted in that for you meeting that goal?

20 A No.

21 Q Was any aspect of customer trouble reporting and  
22 processing part of that goal?

23 A No.

24 Q Let's move back then in time. Were team  
25 incentives or bonus awards awarded when you were working

1 with trouble reports, customer trouble reports

2 ?

3 A I never received any.

4 Q Were you eligible for any?

5 A I assume I was. Everybody was.

6 Q Okay. And were those based upon how you handled  
7 and managed the customer trouble report process?

8 A I would have to say no, because I really don't  
9 know. You know, back then things were handled completely  
10 different. That, you know, everybody's opinion was, you  
11 know -- as far as, you know, like what you're saying is that  
12 only 10 percent of the employees could be eligible for it.  
13 You didn't have -- if you did a good job or whatever 10  
14 percent. And everybody used to think it was favoritism.  
15 So, you know, it was an opinion, and we would never know who  
16 got a bonus or not.

17 Q Do you feel that your job might be in jeopardy  
18 from your having appeared here today?

19 A No.

20 Q Do you feel that the reprimand that is on your  
21 personnel record on your B form will have any negative  
22 impact upon your continued employment, future employment  
23 with this Company?

24 A It possibly can.

25 MR. BEATTY: I want to object to the form of the

1 question. It actually misstates the facts that he has  
2 already articulated with regard to the discipline that  
3 he received.

4 BY MS. RICHARDSON:

5 Q Mr. Bird, would you please look at this personnel  
6 form and let me know if that is your personnel form?

7 A Uh-huh.

8 Q All right. And does it indicate that you received  
9 a reprimand?

10 A Well, as far as what we are doing, a B form is a  
11 reprimand.

12 Q Okay. Do you feel that the reprimand on this  
13 form that you had received in March of '92 of this year  
14 will in any way have a negative impact or a negative effect  
15 upon your continued or future employment with this  
16 company?

17 A It could have. I really couldn't say that it  
18 will.

19 MS. RICHARDSON: Mr. Bird, I think that is all I  
20 have for you this morning, but Ms. Wilson or maybe Mr.  
21 Greer may have one or two questions for you. Thank you  
22 for your time.

23 MR. GREER: I've got one.

24 CROSS EXAMINATION

25 BY MR. GREER:

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Q Mr. Bird, you have discussed two accusations prior. Are those accusations the reason for you being disciplined, or is that just your opinion, or were you told that?

A I wasn't told nothing.

MR. GREER: Okay. That's all.

MS. RICHARDSON: You don't have anything?

MR. BEATTY: I don't have any questions.

MS. RICHARDSON: Mr. Bird, thank you very much for coming today.

(The deposition was concluded at 8:55 a.m.)

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CERTIFICATE OF ADMINISTERING OATH

STATE OF FLORIDA:  
COUNTY OF LEON:

I, JANE FAUROT, Notary Public in and for the State of Florida at Large:

DO HEREBY CERTIFY that on the date and place indicated on the title page of this transcript, an oath was duly administered by me to the designated witness(s) before testimony was taken.

DATED THIS 27th day of September, 1993.



JANE FAUROT  
MY COMMISSION # CC295576 EXPIRES  
July 16, 1997  
BONDED THRU TROY FAIR INSURANCE, INC.

*Jane Faurot*

JANE FAUROT  
100 Salem Court  
Tallahassee, Florida 32301  
(904) 878-2221

MY COMMISSION EXPIRES: 7/16/97

CERTIFICATE OF REPORTER

STATE OF FLORIDA )  
COUNTY OF LEON )

I, JANE FAUROT, Court Reporter, do hereby certify that the foregoing proceedings was taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages numbered 1 through 42 are a true and correct record of the proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, or financially interested in the foregoing action.

DATED THIS 27th day of September, 1993.

*Jane Faurot*

JANE FAUROT  
100 Salem Court  
Tallahassee, Florida 32301  
(904) 878-2221

SWORN TO AND SUBSCRIBED TO BEFORE ME THIS 28 day of September, 1993, IN THE CITY OF TALLAHASSEE, COUNTY OF LEON,

1 STATE OF FLORIDA, BY THE ABOVE PERSON WHO IS PERSONALLY  
2 KNOWN BY ME.

3 *Melanie Bradford*  
4 NOTARY PUBLIC  
5 STATE OF FLORIDA

