

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 910163-TL

FILED: July 21, 1992

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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.)

DEPOSITION OF: MICHAEL G. MYERS
TAKEN AT THE INSTANCE OF: Office of Public Counsel
PLACE: Southern Bell Offices
903 West University Avenue
Gainesville, Florida 32601
TIME: Commenced at 2:35 p.m.
Concluded at 2:50 p.m.
DATE: Thursday, July 30, 1992
REPORTED BY: Marie C. Gentry
Court Reporter

- - -

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Page No.

ERRATA SHEET	4
STIPULATION	5
AFFIDAVIT OF DEPONENT	20
CERTIFICATE OF OATH	21
CERTIFICATE OF REPORTER	22

WITNESS

MICHAEL G. MYERS

Examination by Mr. Beck	6
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S T I P U L A T I O N

IT IS STIPULATED that this deposition was taken pursuant to notice in accordance with the applicable Florida Rules of Civil Procedure; that objections, except as to the form of the question, are reserved until hearing in this cause; and that reading and signing was not waived.

IT IS ALSO STIPULATED that any off-the-record conversations are with the consent of the deponent.

MICHAEL G. MYERS,

1
2 appeared as a witness and, after being duly sworn by the
3 court reporter, testified as follows:

4 - - -

5 MR. LACKEY: Mr. Myers, there are a couple of
6 preliminary matters that I need to take care of before
7 Mr. Beck and Mr. Hatch ask you any questions.

8 First of all, as I just explained, this lady is
9 a court reporter and she's taking down everything I'm
10 saying and she's going to take down the questions that
11 are asked of you and your answers. At some juncture
12 this deposition may be transcribed, that is, reduced
13 to writing, and when it is, you have the right to
14 read it and review it and make any changes that are
15 necessary and to sign it before it can be used. You
16 have the right to waive your right to read and sign
17 it if you choose to do so. Most of the people who
18 have been giving these depositions have wanted to see
19 and sign it before it's used. Is that your wish as
20 well?

21 THE WITNESS: Yes, it is.

22 MR. LACKEY: The other thing I need to do is I
23 need to give you an instruction and it's a little bit
24 complicated, but let me give it to you and, if you
25 have any questions about it, I'll be happy to answer

1 anything I can.

2 The instruction is this: Mr. Beck and Mr. Hatch
3 may ask you questions which will require you to provide
4 information that you may have obtained as a result of
5 an investigation that Southern Bell did at the direction
6 of its Legal Department. If they ask such a question,
7 I will object on the grounds that the information sought
8 is privileged and I will instruct you not to answer the
9 question. However, if such a question is asked and you
10 have personal knowledge that would be responsive to the
11 question, personal knowledge that you obtained because
12 of your job, because of what you do, rather than because
13 of something you heard at this investigation, then you
14 should go ahead and answer their question fully and
15 completely.

16 It may be that they will ask a question and I
17 won't object and you will realize that in order to
18 answer the question you'd have to tell them something
19 that you learned as a result of the investigation. If
20 that's the case, if you'll just turn to me and tell me
21 that you've got a problem, you know, I'll talk to you
22 about it and I'll handle it from there. I just don't
23 want you because I failed to recognize that the
24 question calls for privileged information to go ahead
25 and give it. I want you to tell me that there's a

1 problem.

2 Now, here in Gainesville we have another
3 complication and that is this -- again, you may not
4 have anything to do with this investigation that I'm
5 getting ready to tell you about but I want to make sure
6 that you understand my instruction.

7 Back in late 1990, October, November and December
8 of 1990 there was an investigation done by the Security
9 Department of Southern Bell that related principally to
10 out-of-service reports and specifically treating Test OK
11 results as out-of-service reports. That investigation
12 is not privileged and if Mr. Beck or Mr. Hatch asks you
13 a question about that investigation or about the
14 subject of that investigation or about something you
15 may have learned, if you know anything about that
16 investigation, you should feel free to answer it. You
17 should answer it, not feel free to answer it.

18 My only concern is with the more recent
19 investigation which was conducted by the Legal
20 Department. In all likelihood, if you were interviewed,
21 there would have been an attorney present from Southern
22 Bell. That may help you distinguish this investigation.
23 If you have any questions about that, though, at any
24 point in these questions, you can stop and I'll be happy
25 to talk to you about it. If Mr. Beck or Mr. Hatch asks

1 you a question that you don't understand completely,
2 they'll be more than willing to explain it to you.

3 THE WITNESS: Okay.

4 MR. LACKEY: Is my instruction clear?

5 THE WITNESS: Yes.

6 MR. LACKEY: Okay.

7 - - -

8 EXAMINATION

9 BY MR. BECK:

10 Q Mr. Myers, my name is Charlie Beck. I'm with the
11 Office of Public Counsel and I'm going to be starting with
12 it. Others may have questions, though.

13 Could you please state your name?

14 A Michael G. Myers.

15 Q Are you employed by Southern Bell?

16 A Yes, I am.

17 Q What position do you hold with the company?

18 A Facility tech.

19 Q Is that here in Gainesville?

20 A It's out of Gainesville, but it's Chiefland.

21 Q How long have you held that position?

22 A That title?

23 Q Yes.

24 A You're talking about number of years or in this
25 area?

1 Q Let's start in Chiefland.

2 A I have been in Chiefland about five years and
3 before that I was in Cross City for about seven.

4 Q And did you hold the same position in both places?

5 A Right. It used to be called a cable repairman and
6 they changed it to facility tech.

7 Q Could you briefly describe what that job entails?

8 A If a customer calls in a trouble, they go ahead and
9 screen it and find out what the problem is, what the test is,
10 and they dispatch a line of station personnel. If they can't
11 find it in the station or available to them, then they refer
12 to cable. If it's in like aerial cable, buried cable, they
13 can't get to it, we have the test set and the plats, the maps
14 to go out and find the trouble and we're responsible for
15 clearing the trouble.

16 Q After you've cleared a trouble do you call in to a
17 maintenance administrator?

18 A We used to.

19 Q How do you do it now?

20 A It's done with a CAT terminal now. We just type it
21 in and it goes straight into the computer.

22 Q And amongst the information you provide do you say
23 what the trouble was when you report it in?

24 A Uh-huh.

25 Q Do you also put forward the time that the trouble

1 was repaired?

2 A Right.

3 Q Do you have any -- are you familiar with certain
4 codes that exclude a trouble report from the Public Service
5 Commission rule on out-of-service reports?

6 THE WITNESS: That I have a problem with.

7 MR. LACKEY: Let me ask a question or two, if I
8 might.

9 Are you familiar with the Commission Rule that
10 requires 95 percent of all customer originating
11 complaints be cleared in 24 hours?

12 THE WITNESS: I have been recently, yes.

13 MR. LACKEY: And do you know that certain codes
14 such as lightning or acts of God or hurricanes or
15 something would take those --

16 THE WITNESS: That I have heard.

17 MR. LACKEY: Okay.

18 Would you mind asking the question, ask him
19 exclusive of what he may have learned during the
20 investigation does he know that?

21 MR. BECK: Sure.

22 MR. LACKEY: Let's see what he can do with that.

23 BY MR. BECK:

24 Q Let me back up a little bit more.

25 I take it you were interviewed by some Southern

1 Bell attorneys?

2 A Yes, I was.

3 Q And Mr. Lackey has instructed you not to say
4 anything you learned as a result of talking with them.

5 A That's correct.

6 Q Now, do you also understand that if I happen to ask
7 the same questions or similar questions to what they asked
8 you and you know what the answer is, you're going to go ahead
9 and tell me? Or do you understand it that way?

10 A I don't understand that. Clarify that.

11 MR. LACKEY: Why don't we go off the record?

12 (Off the record.)

13 BY MR. BECK:

14 Q I'm going to change the area of questions a little
15 bit and I'll try to accommodate your concerns.

16 Have you ever talked with any Southern Bell
17 managers about the use of certain exclude codes or repair
18 reports?

19 A Yes.

20 Q Could you describe what those conversations were?

21 A Well, when a trouble was closed out, I was asked
22 could it have been caused by lightning.

23 Q Do you recall who it was who asked you that?

24 A

25 Q About when was that?

1 A I couldn't give you an exact date. I would say
2 probably a year and a half, something like that.

3 Q Do you recall what brought about the conversation?

4 A Well, it was a missed commitment.

5 Q So it was a repair that took more than 24 hours
6 from when the customer called in?

7 A Right.

8 Q Did he initiate the contact with you or did you
9 initiate the contact with him?

10 A No. That's when we used to close out live with an
11 MA. We used to call in to close the trouble out and we would
12 give them the cause and the times they were cleared.

13 Q And is a manager, is he not?

14 A Uh-huh.

15 Q Why were you talking with him about it instead of
16 an MA?

17 A There used to be a point in time where if the
18 trouble was over 24 hours, a manager had to be on the line
19 when we closed it out. I think it went on for probably three
20 months.

21 Q And this was during that time period?

22 A (Nods head.)

23 Q And he asked you whether the repair you were
24 working on could have been caused by lightning?

25 A Uh-huh, could we show a lightning.

1 Q What type of repair was it, if you recall?

2 A Oh, there could be various reasons. It could have
3 been squirrel bite the cable or a gunshot or, you know, a
4 number of things.

5 Q On this specific repair?

6 A Well, you're saying specific now.

7 Q Okay.

8 A You know, I deal with thousands of repairs. I
9 can't pick out a specific repair.

10 Q Do you recall, though with this one that you talked
11 with about?

12 A No, I can't.

13 Q What was your reaction to him asking you if it had
14 been caused by lightning?

15 A I responded that it was not caused by lightning.

16 Q What did he say?

17 A He said, "We can't show it to lightning?" And I
18 come back with no.

19 Q So he asked you twice?

20 A Uh-huh.

21 Q Then what happened after you said no?

22 A He just said, "Oh, well, drop off the line," and I
23 finished closing the trouble out.

24 Q Did you feel that he was implying that you should
25 have closed it out to lightning?

1 A Maybe suggesting, yes.

2 Q Was there anything about the report that would have
3 suggested to him that perhaps lightning had been the cause?

4 A I wouldn't have any idea.

5 Q And was that the end of it after that conversation?

6 A Uh-huh.

7 Q Have you talked with any other managers about
8 excluding reports?

9 A No, not excluding reports.

10 Q Have there been any other times when you thought
11 managers might be suggesting that you do something you
12 weren't supposed to do?

13 A There were a couple of other occasions with one of
14 the managers.

15 Q Which manager was that?

16 A

17 Q And what was it that happened with him?

18 A He asked what time it was cleared, could we -- in
19 other words, he was more or less saying -- we used to go by
20 two times, a service restored time and a completed time. In
21 my kind of a job, I can have the trouble cleared at 8:00
22 o'clock in the morning but I may not finish it until 10:00
23 o'clock at night depending on what the degree of trouble is
24 out there.

25 So he asked a couple of times what time was it

1 cleared or couldn't we say it was cleared earlier than that.

2 Q He asked you couldn't you put it down as cleared
3 earlier?

4 A No, couldn't it have been cleared earlier.

5 Q What was your response?

6 A No.

7 Q What did he say?

8 A That was it.

9 Q Did he ask you several times on the same repair?

10 A No.

11 Q About how many times did this occur with
12

13 A Probably a couple of times is all.

14 Q And, again, did you feel that he was suggesting
15 that you should have backed it up to a time earlier than the
16 cleared time?

17 A I wouldn't take it as a suggestion as much as
18 wishful thinking, really, you know, that maybe.

19 Q If you recall, do you know about how many times you
20 had these types of discussions with

21 A Like I say, that was only a couple of times.

22 Q Have there been any other instances where you felt
23 managers have suggested or insinuated in some way that you do
24 something you weren't supposed to do?

25 A No.

1 Q Has anybody ever directly asked you to back up a
2 time to a time earlier than the cleared time?

3 A Uh-uh.

4 MR. LACKEY: I need to explain this to you. As I
5 said, this lady is writing everything down. If you would
6 say yes and no, it would facilitate things.

7 A No.

8 Q Have you ever heard of others backing up times to
9 earlier than the cleared time?

10 THE WITNESS: That I have a problem with.

11 Q Okay. Let me ask this: Other than what may have
12 been told to you by a Southern Bell attorney during their
13 investigation?

14 A No.

15 Q You have not? Let me clarify that all my questions
16 will be that. If your only answer is because a Southern Bell
17 attorney told you something during an interview, then you can
18 go ahead and forget that as far as what I'm asking you. But,
19 if it's anything other than the attorney telling you that
20 during the questioning --

21 A I will tell you.

22 MR. LACKEY: The attorney or the person working
23 under the attorney's supervision. There were other
24 people in these interviews.

25 MR. BECK: Okay, during the interview itself.

1 If there were other people with the attorney, that
2 counts as the same.

3 BY MR. BECK:

4 Q Do you have any knowledge of persons using
5 no-access codes on trouble reports when there was not any
6 problem with access?

7 A No, I don't.

8 Q How about with the use of the CON Code when a
9 customer did not ask for a later appointment?

10 A You have to explain CON Code to me.

11 Q Do you know what happens when a customer says that
12 they can't be available at the time that was offered to them
13 and they ask you to come at a later time?

14 A Not really, because, like I say, I deal in cable
15 repair. I'm the last one on the line to get the trouble
16 report.

17 Q Do you have any knowledge about persons statusing
18 affecting service reports as out-of-service reports?

19 A Repeat that.

20 Q Do you have any knowledge of persons statusing what
21 should be an affecting service report as an out-of-service
22 report?

23 A No.

24 Q Have you ever created an employee-generated repair
25 report?

1 A Yes, about 18 years ago.

2 Q Has anyone ever suggested to you that you should
3 open one up in a case where, in fact, it was a
4 customer-created report?

5 A No.

6 Q Other than the discussions you had with
7 has anybody ever suggested to you to use an exclude code
8 where it didn't apply in that situation?

9 A No.

10 MR. LACKEY: Let me object to the form of the
11 question to the extent that it characterizes his
12 testimony about as indicating that
13 suggested it to him. I'm sure you didn't mean that.

14 MR. BECK: It wasn't meant that way.

15 MR. LACKEY: It just struck me that way.

16 BY MR. BECK:

17 Q Do you have any knowledge of persons falsifying
18 reports in any manner that we haven't discussed today?

19 A No.

20 MR. BECK: Mr. Myers, thank you. That's all
21 I have.

22 MR. HATCH: I don't have any questions.

23 MR. LACKEY: Thank you, Mr. Myers.

24 We appreciate your time.

25 (Witness excused)

(Whereupon, at 2:50 o'clock p.m, the deposition was concluded.)

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This is to certify that I, MICHAEL G. MYERS, have read the foregoing transcription of my testimony, Page 6 through 19, given on July 30, 1992, in Docket No. 910163-TL, and find the same to be true and correct, with the exceptions, and/or corrections, if any, as shown on the errata sheet attached hereto.

MICHAEL G. MYERS

Sworn to and subscribed before me this _____ day of _____, 19__.

NOTARY PUBLIC

State of _____

My Commission Expires:

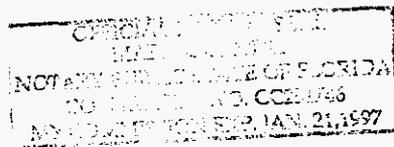
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F L O R I D A)
:
C O U N T Y O F C L A Y)

I, the undersigned authority, certify that
Michael G. Myers personally appeared before me and
was duly sworn.

WITNESS my hand and official seal this 15th day
of October, 1993.

Marie C. Gentry
MARIE C. GENTRY
Notary Public - State of Florida
My Commission No. CC251746
Expires: January 21, 1997



1 STATE OF FLORIDA)
2 COUNTY OF CLAY)

CERTIFICATE OF REPORTER

3
4 I, Marie C. Gentry, Court Reporter,
5 DO HEREBY CERTIFY that I was authorized to and did
6 stenographically report the foregoing deposition of MICHAEL
7 G. MYERS;

8 I FURTHER CERTIFY that this transcript, consisting
9 of 22 pages, constitutes a true record of the testimony given
10 by the witness.

11 I FURTHER CERTIFY that I am not a relative,
12 employee, attorney or counsel of any of the parties, nor am I
13 a relative or employee of any of the parties' attorney or
14 counsel connected with the action, nor am I financially
15 interested in the action.

16 DATED this 1st day of October, 1993.

17 Marie C. Gentry
18 Marie C. Gentry
19 Court Reporter
20 Telephone No. (904) 264-2943

21 STATE OF FLORIDA)
22 COUNTY OF CLAY)

23 The foregoing certificate was acknowledged before
24 me this 1st day of October, 1993,
25 by Marie C. Gentry, who is personally known to me.

Patricia H. Vierengel
Notary Public - State of Florida

PATRICIA H. VIERENGE
NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXPIRES 6/31/97
COMM. # CC 299027

