

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Dade County Circuit Court referral of certain issues in Case No. 94-14234-CA-22 (S.H. Dohan & Company, P.A. vs. Transcall America, Inc. d/b/a ATC Long Distance) that are within the Commission's jurisdiction.

DOCKET NO. 951270-TI
ORDER NO. PSC-97-0713-PHO-TI
ISSUED: June 16, 1997

Pursuant to Notice, a Prehearing Conference was held on June 6, 1997, in Tallahassee, Florida, before Commissioner Diane K. Kiesling, as Prehearing Officer.

APPEARANCES:

Robert C. Maland, Esquire, Maland and Ross Law Firm, 2 Datron Center, Suite 1705, 9130 South Dadeland Boulevard, Miami, Florida, 33156 (appearing by telephone).
On behalf of S.H. Dohan and Company, P.A..

Michael B. Twomey, Esquire, P.O. Box 5256, Tallahassee, Florida 32314-5256.
On behalf of S.H. Dohan and Company, P.A..

Wayne R. Malaney, Esquire, Law Offices of Wayne R. Malaney, Blairstone Road, Suite C, Tallahassee, Florida 32301.
On behalf of S.H. Dohan and Company, P.A..

Elliott Messer, Esquire, Floyd R. Self, Esquire, Gwen Jacobs, Esquire, and Albert T. Gimbel, Esquire, Messer, Caparello & Self, P.A., Post Office Box 1876, Tallahassee, Florida 32302-1876.
On behalf of Transcall America, Inc..

Beth Culpepper, Esquire, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.
On behalf of the Commission Staff.

DOCUMENT NUMBER-DATE

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FPSC-REGISTRATION REPORTING

PREHEARING ORDER

I. CASE BACKGROUND

Dohan & Company, P.A., (Dohan) filed this complaint with the Dade County Circuit Court on March 22, 1997, against Transcall America, Inc., d/b/a ATC Long Distance (Transcall) for alleged improper billing. On August 3, 1995, the Court issued I. Order Determining Claim to Be Maintained as Class Action II. Final Order Approving Class Action Settlement III. Order Staying Action and Transferring Same to the Florida Public Service Commission. Therein, the Court stated that Dohan's claims raise issues regarding Transcall's billing system and the application of tariff provisions that are within the specialized expertise and jurisdiction of the Commission. Accordingly, this docket was opened to address the specific issues referred to us. Discovery has ensued and this matter has been set for hearing June 19 - 20, 1997.

II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 364.183(2), Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 364.183, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

1. Any party wishing to use any proprietary confidential business information, as that term is defined in Section 364.183, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
2. Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
3. When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
4. Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
5. At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the

Division of Records and Reporting confidential files.

Post-hearing procedures

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

A party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 60 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

III. PREFILED TESTIMONY AND EXHIBITS

Testimony of all witnesses to be sponsored by the parties and Staff has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

IV. ORDER OF WITNESSES

<u>WITNESS</u>	<u>APPEARING FOR</u>	<u>ISSUES</u>
<u>Direct</u>		
Joseph Signorelli	Dohan	1, 2
David Resposo	"	1, 2
Eric Bott	"	1, 2, 3, 4, 5, 6, 7
* ¹ William Anderson		1, 6, 7
*Scott Sullivan		1, 2, 5, 6
*Dennis Sickle		1
Brian Sulmonetti	Transcall	1, 2, 4, 5
<u>Rebuttal</u>		
Joseph Signorelli	Dohan	1, 2, 4, 5
Brian Sulmonetti	Transcall	1, 2, 4, 5
Joan Neptune	"	1, 2
Mark Neptune	"	1, 2
Joan O'Brien	"	3, 4

¹* Testimony was not filed for these witnesses. Plaintiff Dohan reserves the right to call these persons as adverse witnesses.

<u>WITNESS</u>	<u>APPEARING FOR</u>	<u>ISSUES</u>
** ² Ronald Mott		3, 4, 5
*** ³ Denise Vandiver	Staff	3
**** ⁴ Dan Nutkis	Transcall	
****Jeffery Kennedy	Transcall	
<u>Surrebuttal</u>		
Joseph Holop	Transcall	1, 2, 4, 5

V. BASIC POSITIONS

DOHAN:

Class members were overbilled 9 seconds in excess of tariff on all calls through the Telus Miami switch from 1/1/87 through at least 5/31/91. WorldCom has obligated itself to pay any refunds that the Commission orders. Recently produced documents reveal that class members were charged for unanswered calls, another tariff violation.

²** Mr. Ronald Mott has not prefiled testimony in this docket. By Stipulation of the parties filed March 10, 1995, with the Eleventh Circuit Court for Dade County, and approved by the Court on August 3, 1995, Mr. Mott was retained by both parties as a special consultant with the expectation that Mr. Mott would testify as an expert witness in this proceeding.

³*** Ms. Denise Vandiver is staff's witness. While her testimony is not rebuttal testimony, Ms. Vandiver's testimony is the result of a staff audit that was conducted to verify calculations in certain exhibits submitted by Ms. Joan O'Brien. As such, it is more appropriate to take Ms. Vandiver's testimony in this order.

⁴**** Transcall requested the addition of these witnesses, if they become available. Transcall is required to file a motion for leave to file testimony of these witnesses.

TRANSCALL:

From September 1989 through May 1991, nine seconds was added to billable call duration. The effect of this practice, because of the rounding provision of the applicable tariff, was to increase charges on some calls in excess of the permissible amount. Transcall believes that any overcharges were fully compromised and settled for the period December 5, 1990 through May 31, 1991 through the settlement approved in Docket No. 910517-TI.

STAFF:

Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VI. ISSUES AND POSITIONS

ISSUE 1: Were members of the Class billed improperly and did they pay any amounts in excess of the rates and charges properly chargeable under applicable tariffs for intrastate calls?

DOHAN: Yes. Members of the class were intentionally overbilled 9 seconds on every call placed through the Miami Billing system by Defendant's predecessor in interest. The addition of the nine seconds was not authorized by applicable tariffs. Additionally, Defendant overbilled for unanswered calls in violation of tariff.

TRANSCALL:

Some customers were improperly billed during the period September 1989 through May 1991 for 9 seconds in excess of that authorized by tariff. However, not all customers were improperly billed because, due to rounding, the 9 seconds would not change the billed amount on every call.

STAFF: Staff takes no position pending further review of the testimony and evidence submitted in this docket.

ISSUE 2: If overcharges occurred, which members of the Class paid them and over what period of time did they occur?

DOHAN: All members of the class paid the overcharges during 1987 through at least May 1991.

TRANSCALL:

The 9 seconds was added during the period September 1989 through May 1991.

STAFF: Staff takes no position pending further review of the testimony and evidence submitted in this docket.

ISSUE 3: If overcharges occurred, what is the aggregate amount of such overcharges, including any applicable interest?

DOHAN: The amount of actual overcharges, including interest and taxes, is approximately \$58 million dollars, excluding charges for unanswered calls and taxes/interest related thereto.

TRANSCALL:

At the present time, for the period of September 1989 through May 31, 1991, the estimated net incremental revenue after taxes and before interest is \$2.453 million. This estimate includes intrastate, interstate, and international revenues. The Company is continuing to evaluate the availability of other data that may provide a better estimate. A refund for the period September 1989 through November 1990 would equal approximately \$1.9 million dollars.

STAFF: Staff takes no position pending further review of the testimony and evidence submitted in this docket.

ISSUE 4: What is the appropriate method of calculating the portion of such aggregate amount, or of the "minimum refund," to be refunded to each Class member?

DOHAN: With some built-in assumptions, the amount of actual overbilling, together with interest and taxes, can be extrapolated by working backwards off of ATC's financial statements and from the spreadsheets and calculations from Ron Mott from O'Brien, Eric Bott's and PSC Staff's calculations.

Refunds are to be made prorata to each class member.

TRANSCALL:

The amount of each customer's refund will be dependent upon the total refund amount and the individual usage characteristics of each customer's billings history.

STAFF: Staff takes no position pending further review of the testimony and evidence submitted in this docket.

ISSUE 5: What is the appropriate method by which refunds shall be made to members of the Class entitled to such refunds?

DOHAN: The Defendant should be required to locate the refund recipients, and pay for notice to those recipients.

A claims administrator should be appointed to administer the refunds, once the Commission determines the amount due.

TRANSCALL:

At this point, Transcall anticipates that each customer's refund will be made by check. The final implementation of any refund shall be subject to the Commission's approval.

STAFF: Staff takes no position pending further review of the testimony and evidence submitted in this docket.

ISSUE 6: Did refunds and releases executed pursuant to the Settlement Agreement between the Florida Department of Legal Affairs, the Office of Public Counsel, and Transcall, dated July 8, 1993, and approved by the Florida Public Service Commission in Order No. PSC-93-1237-AS-TI, fully satisfy and resolve any or all of the claims which are the subject of the Third Amended Complaint for Damages?

DOHAN: No. The Defendant's general counsel has specifically testified that ATC did not know about the nine seconds at the time of the prior settlement, and therefore none of these parties were informed about it. Moreover, in response to a request for admissions herein, Respondent admitted it did not. Thus, the prior settlement did not encompass any compensation to consumers for the nine seconds they were overbilled.

TRANSCALL:

Because of the overlapping time period some refunds have already been made and releases obtained, for certain of these overcharges. The Settlement Agreement approved by Order No. PSC-93-1237-AS-TI effected a full compromise and settlement of all overcharges and claims of affected Telus customers, whether known or unknown, for the period December 5, 1990 through May 31, 1991. The extent to which this limits recovery will be clearer after final reconciliation.

STAFF: Staff takes no position pending further review of the testimony and evidence submitted in this docket.

ISSUE 7: Do the doctrines of administrative finality, collateral estoppel or res judicata preclude further administrative litigation of the claims raised by the plaintiffs?

DOHAN: The Doctrine of administrative finality, collateral estoppel and res judicata are inapplicable because they require the prior proceedings be the same. See State,

Dept. of Environmental Protection v. Burgess, 667 So. 2d 267 (Fla. 1st DCA 1995). Other requirements of those doctrines are not present.

TRANSCALL:

These doctrines do operate to prevent re-litigation of certain issues. For example, this Commission's prior Order No. PSC-93-1237-AS-TI, entered in Docket No. 910517-TI, dated August 25, 1993, confirms a full and complete compromise and settlement of all overcharges for affected Telus customers for the period December 5, 1990 through May 31, 1991, and it further establishes the tariff change to conversation time which precludes any possibility of refunds after May 31, 1991.

STAFF: Staff takes no position pending further review of the testimony and evidence submitted in this docket.

VII. EXHIBIT LIST

<u>WITNESS</u>	<u>PROFFERED BY:</u>	<u>I.D. NO.</u>	<u>DESCRIPTION</u>
Joe Signorelli	Dohan	_____ (JS - 1 - 1 - 3)	August 13, 1990 memo to Norman Klugman, with attached billing matrix and "DEX switches legend"
Joe Signorelli		_____ (JS - 2 - 4 - 11)	Comp. 7 pages "Rate Tests on Criteria"
Joe Signorelli		_____ (JS - 3)	ATC memo from Norman Klugman to all employees 5/23/91

<u>WITNESS</u>	<u>PROFFERED BY:</u>	<u>I.D. NO.</u>	<u>DESCRIPTION</u>
David Resposo	Dohan	_____ (DR - 1 - 1 - 8)	5 page Composite Computer Printout
Eric Bott	Dohan	_____ (EB - 1)	Order determining claim to be maintained as class action
Eric Bott		_____ (EB - 2)	Stipulation regarding conditional class certification and settlement
Eric Bott		_____ (EB - 3)	Order Conditionally Certifying action for class action treatment 3/22/95
Eric Bott		_____ (EB - 4)	Portion of deposition of William Anderson 1/29/97
Eric Bott		_____ (EB - 5)	Letter of May 11, 1994 to William Anderson
Eric Bott		_____ (EB - 6)	Letter of May 25, 1994 to William Anderson

<u>WITNESS</u>	<u>PROFFERED BY:</u>	<u>I.D. NO.</u>	<u>DESCRIPTION</u>
Eric Bott	Dohan	<u> </u> (EB - 7)	Letter of May 27, 1994 from Floyd Self to Chairman Deason
Eric Bott		<u> </u> (EB - 8)	Composite Exhibit, Letter of August 3, 1994 and Letter of September 8, 1994
Eric Bott		<u> </u> (EB - 9)	Letter of June 6, 1994 from William Anderson
Eric Bott		<u> </u> (EB - 10a, 10b, and 10c)	Composite Exhibit Calculations of charges
Eric Bott		<u> </u> (EB - 11)	ATC 1991 10k Annual Report
Eric Bott		<u> </u> (EB - 12)	Revenue Analysis using TP7-TP6
Brian Sulmonetti	Transcall	<u> </u> (BS - 1)	Telus Study
Brian Sulmonetti		<u> </u> (BS - 2)	Pages of Telus Billing System Printout
Brian Sulmonetti		<u> </u> (BS - 3)	May 27, 1994 letter to FPSC
Brian Sulmonetti		<u> </u> (BS - 4)	Telus Corporate Documents

<u>WITNESS</u>	<u>PROFFERED BY:</u>	<u>I.D. NO.</u>	<u>DESCRIPTION</u>
Brian Sulmonetti	Transcall	<u> </u> (BS - 5)	June 1991 tariff amendment and cover letter reflecting change to conversation time only
Brian Sulmonetti		<u> </u> (BS - 6)	Relevant tariff sections addressing unanswered calls
Joan O'Brien	Transcall	<u> </u> (JOB - 1)	Corrected Bott Analysis
Joan O'Brien		<u> </u> (JOB - 2)	WorldCom Estimate for 1/87-6/18/91 Net of Unaffected Periods (Parts 1 and 2)
Joan O'Brien		<u> </u> (JOB - 2A)	Tax Calculation
Joan O'Brien		<u> </u> (JOB - 2B)	Credit and Bad Debt Factor Calculation for the Period 5/90 - 5/91
Joan O'Brien		<u> </u> (JOB - 2C)	Credit Explanation

<u>WITNESS</u>	<u>PROFFERED BY:</u>	<u>I.D. NO.</u>	<u>DESCRIPTION</u>
Joan O'Brien	Transcall	_____ (JOB - 2D)	Calls Unaffected Factor Net of Unaffected Period
Joan O'Brien		_____ (JOB - 2E)	Commercial Factor Calculation
Joan O'Brien		_____ (JOB - 5)	WorldCom Estimate for 1/87 - 6/18/91 (Parts 1 and 2)
Joan O'Brien		_____ (JOB - 5A)	Tax Calculation
Joan O'Brien		_____ (JOB - 5D)	Calls Unaffected Factor Net of Unaffected Period
Denise Vandiver	Staff	_____ (DNV - 1)	Staff Audit Report
Denise Vandiver		_____ (DNV - 2)	Audit Calculation for Dollar Change Resulting from Adjustment to Unaffected Call Factor
Denise Vandiver		_____ (DNV - 3)	Audit Calculation of Effect of Adding June 1991

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<u>WITNESS</u>	<u>PROFFERED BY:</u>	<u>I.D. NO.</u>	<u>DESCRIPTION</u>
Denise Vandiver	Staff	<u> </u> (DNV - 4)	Audit Calculation of \$19,000 Decrease to Total Additional Revenues to adjust August 1989 Minutes of Use
Denise Vandiver		<u> </u> (DNV - 5)	Audit Calculation of \$6,000 Decrease to Total Additional Revenues to change Credit Adjustment Factor for January 1989 - May 1989
Denise Vandiver		<u> </u> (DNV - 6)	Audit Calculation of \$4,000 Decrease of 1990 Revenue Refund Amount to remove Directory Assistance

<u>WITNESS</u>	<u>PROFFERED BY:</u>	<u>I.D. NO.</u>	<u>DESCRIPTION</u>
Denise Vandiver	Staff	<u> </u> (DNV - 7)	Audit Calculation of \$5,000 Increase in Total Refund Balance Resulting from Corrected Interest Rate Amounts
Joseph P. Holop	Transcall	<u> </u> (JPH - 2)	July 22, 1991, Green Bar Printout JOB 1170
Joseph P. Holop		<u> </u> (JPH - 3)	November 14, 1991, Green Bar Printout
Joseph P. Holop		<u> </u> (JPH - 4)	Memorandum re: Call Timing
Joseph P. Holop		<u> </u> (JPH - 5)	June 14, 1991 Call Timing Test Labeled "Before"
Joseph P. Holop		<u> </u> (JPH - 6)	June 14, 1991 Call Timing Test Labeled "After"

VIII. OTHER EXHIBITS

The parties have reached a stipulation that the following exhibits may be moved into the record without objection:

A. Composite Tariff Pages

1. Teltec Tariff 2nd Revised Page 6, Effective October 19, 1983;
2. Teltec Tariff 3rd Revised Page 34A, Effective May 28, 1986;
3. Telus Tariff Original Sheet 6, Effective June 21, 1988;
4. Telus Tariff Original Sheet 29, Effective June 21, 1988;
5. Telus Tariff 2nd Revised Sheet 29; Effective February 9, 1989;
6. Transcall Tariff 2nd Revised Sheet 19, Effective March 26, 1990;
7. Transcall Tariff 3rd Revised Sheet 19, Effective December 5, 1990.

B. Composite Corporate Merger Documents

1. Purchase Agreement between Transcall America, Inc., and Galesi Telecommunications, Corporation;
2. Certificate of Dissolution of Galesi Telecommunications, Inc.;
3. Articles of Dissolution of Telus Communications, Inc.;
4. Bylaws of TransAmerica Systems, Inc.;
5. Bylaws of Advanced Telecommunications Corporation;
6. Agreement and Plan of Merger Between Galesi Telecommunications, Inc. And Advanced Telecommunications Corporation;
7. Agreement and Plan of Merger between Advanced Telecommunications Corporation and LDDS Communications, Inc.

C. Composite Corporate Documents Regarding Billing

1. TBS Telephony Billing System Overview (July 1, 1988);
2. Minutes from Special Meeting Re: LDA/Teltec Billing Differentials dated 6/9/88;

3. Memo dated August 26, 1988 Re: Discussion Tuesday afternoon regarding one minute calls;
4. Memo dated April 18, 1989 Re: Telesphere One Plus Conversion Issues;
5. Memo dated April 19, 1989 Re: Billing Differences;
6. Memo dated June 5, 1989 Re: Default Billing Test Results.

D. Composite PSC and Court Orders

1. Florida Public Service Commission Order No. PSC-93-1237-AS-TI, issued August 25, 1993, in Docket No. 910517-TI;
2. Final Order Approving Class Action Settlement in Case no. 94-14234-CA-22, issued July 23, 1995, by the Dade County Circuit Court.

E. Composite June 13, 1997, Deposition of Joan O'Brien

1. Deposition Transcript;
2. JOB-2, JOB-2A, JOB-2B, JOB-2D, JOB-2E, JOB-2F, "18.9";
3. JOB-2 "35";
4. Spread Sheets "46";
5. JOB-5, Part 1 "18.9";
6. Notes to Accompany JOB-2;
7. JOB-2F;
8. Summary of EDS Memoranda;
9. Late-Filed JOB-5 Reflecting 35% short call duration factor;
10. Late-Filed JOB-5 Reflecting 18.9% and 46% short call duration factor;
11. Late-Filed Revised JOB-2 exhibits "18.9";
12. Late-Filed Revised JOB-2 exhibits "35";
13. Late-Filed Revised JOB-2 "46";
14. Late-Filed Revised JOB-5 "18.9";
15. Late-Filed Revised JOB-5 "35";
16. Late-Filed Revised JOB-5 "18.9" and "46".

IX. PROPOSED STIPULATION

The parties have also stipulated that the letter contained in Exhibit BS - 3, the letter from Mr. Self to Commissioner Deason dated May 27, 1994, was true and accurate at the time the letter was written, that it was transmitted with the authority and knowledge of Mr. Self's client, and that the intent of the letter was to reflect the facts as Mr. Self knew them at the time.

X. PENDING MOTIONS

Transcall's Motion to Accept Late Filed Rebuttal Testimony filed June 9, 1997, and Transcall's Motion to Take the Deposition of Jeffery D. Kennedy and For Use of Said Deposition at Trial filed June 13, 1997.

XI. RULINGS

By Order No. PSC-97-0646-PCO-TI, issued June 6, 1997, Plaintiff Dohan's Second Motion for Partial Summary Judgment was denied. Transcall's Motion to Strike Dohan's Reply Memorandum in Support of Second Motion for Partial Summary Judgment is, therefore, moot.

Dohan's request to add an Issue 8 on whether the Defendant Transcall's loss or destruction of records precludes it from contesting its over-billing of class members from 1987 forward is denied.

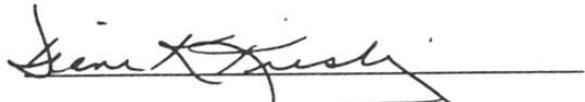
Dohan may not call Brian Sulmonetti, Denise Vandiver, and Mark Neptune as adverse witnesses in the Plaintiff's case in chief. These witnesses have already prefiled testimony in this proceeding and will be made available for cross-examination at the hearing. If at the hearing there are areas that Dohan finds it is unable to cover on cross-examination due to the scope of a witness's direct testimony and examination, then Dohan may present its request to call the witness as an adverse witness for consideration by the full Commission.

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It is therefore,

ORDERED by Commissioner Diane K. Kiesling, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Diane K. Kiesling, as Prehearing Officer, this 16th day of June, 1997.



Diane K. Kiesling, Commissioner
and Prehearing Officer

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.