



AT&T

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ORIGINAL  
FILE COPY

Michael W. Tye  
Senior Attorney

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(904) 224-5407

July 14, 1989

Mr. Steven C. Tribble, Director  
Florida Public Service Commission  
101 East Gaines Street  
Tallahassee, Florida 32301

Re: Docket No. 870790-TL  
Gilchrist County EAS

Dear Mr. Tribble:

ACK ✓ \_\_\_\_\_ Enclosed for filing in the above referenced docket  
AFA \_\_\_\_\_ are one (1) original and fifteen (15) copies of AT&T's  
APP 1 w/rd Motion To Accept Protest Filed Out Of Time and Protest of  
CAF (Harvey) Order Regarding Confidentiality. Service has been made  
\_\_\_\_\_ on the respective parties in accordance with the attached  
Certificate of Service.

CMU \_\_\_\_\_  
CTR \_\_\_\_\_ Thank you for your consideration in this matter.

EAG \_\_\_\_\_  
LEG 1 \_\_\_\_\_  
LIN 6 \_\_\_\_\_  
OPC \_\_\_\_\_  
RCH \_\_\_\_\_  
SEC 1 \_\_\_\_\_  
WAS \_\_\_\_\_  
OTH Fay \_\_\_\_\_

MWT:sdh  
Attachments  
cc: J. P. Spooner, Jr.  
Rita Swaye

Yours truly,  
*Michael W. Tye*  
Michael W. Tye

RECEIVED & FILED

J. P. Spooner  
FPSC BUREAU OF RECORDS

DOCUMENT NUMBER-DATE  
06989 JUL 14 1989  
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Extended) DOCKET NO. 870790-TL  
Area Service throughout ) Date Submitted:  
Gilchrist County ) July 14, 1989

MOTION TO ACCEPT PROTEST FILED OUT OF TIME

AT&T Communications of the Southern States, Inc,  
(hereinafter "AT&T"), pursuant to Rule 25-22.006,  
Florida Administrative Code, and Rule 25-22.037, Florida  
Administrative Code, files this Motion to Accept Protest  
Filed Out of Time with the Florida Public Service  
Commission (hereinafter the "Commission"). AT&T  
respectfully requests the Commission to accept the  
attached Protest of Order Regarding Confidentiality  
filed this date in the above-referenced docket and to  
grant the relief requested therein. In support, thereof,  
AT&T respectfully shows as follows:

1. AT&T is a party to the above-referenced docket  
pursuant to Order No 20211, issued October 25, 1988.

AT&T's full name and address are:

AT&T Communications of the Southern States, Inc.  
1200 Peachtree Street, N.E.  
Atlanta, Georgia 30309

DOCUMENT NUMBER-DATE  
06989 JUL 14 1989  
FPSC-RECORDS/REPORTING

2. AT&T's representative to whom all pleadings, orders and correspondence should be addressed is:

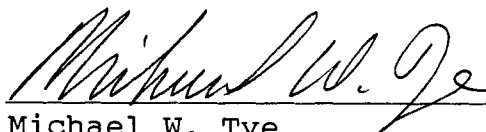
Michael W. Tye, Esq.  
315 South Calhoun Street  
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3. The Commission apparently issued its Order No. 21253 in the above-referenced docket on June 27, 1989, however, counsel for AT&T did not receive a copy of said order through the U.S. Mail. Counsel for AT&T learned of the existence of said order through a telephone conversation with counsel for Southern Bell on July 13, 1989, some sixteen (16) days after the issuance date. Consequently, AT&T was unable to file its protest within the fourteen (14) day period prescribed in Rule 25-22.006, Florida Administrative Code.

4. AT&T's right to protest disclosure of its confidential proprietary information has been prejudiced by the lack of receipt of timely notice of the issuance of Order No. 21253. Accordingly, the Commission should grant this Motion to Accept Protest Out of Time.

WHEREFORE, AT&T respectfully requests that the Commission accept the Protest of Order Regarding Confidentiality attached hereto and grant the relief requested herein.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Michael W. Tye", is written over a horizontal line.

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ATTORNEY FOR AT&T  
COMMUNICATIONS OF THE  
SOUTHERN STATES, INC.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Extended ) DOCKET NO. 870790-TL  
Area Service throughout ) Date Submitted:  
Gilchrist County ) July 14, 1989

PROTEST OF ORDER REGARDING CONFIDENTIALITY

AT&T Communications of the Southern States, Inc. (hereinafter "AT&T"), pursuant to Rule 25-22.006(2)(f), files this Protest to Order No. 21453 issued in the above-referenced docket on June 27, 1989, and respectfully requests that the Commission reverse its tentative ruling denying the Request for Specified Confidential Classification of material filed by Southern Bell Telephone and Telegraph Company (hereinafter "Southern Bell"). In support thereof, AT&T respectfully shows as follows:

1. AT&T is an interexchange carrier (hereinafter "IXC") presently engaged in the business of providing intrastate interexchange telecommunications services pursuant to a certificate issued by the Florida Public Service Commission (hereinafter the "Commission"). The Company's full name and address are:

AT&T Communications of the Southern States, Inc.  
1200 Peachtree Street, NE  
Atlanta, Georgia 30309

2. AT&T's authorized representative to whom all pleadings, orders, and correspondence with respect to this docket should be addressed is:

Michael W. Tye, Esq.  
Suite 505  
315 South Calhoun Street  
Tallahassee, Florida 32301  
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3. AT&T presently subscribes to intrastate billing and collection services offered by Southern Bell. The Request for Specified Confidential Classification which Southern Bell filed in this docket, related to a traffic study summarizing the calling patterns along certain interLATA routes in Gilchrist County. Such routes are subject to competitive pressures by virtue of their interLATA nature. The data contained in the study constitutes AT&T's interLATA traffic usage along the subject routes. Such information is proprietary confidential business information which Southern Bell is required to protect and which would provide valuable market data not otherwise available to AT&T's competitors if released.

4. Order No. 21453 is a tentative ruling denying Southern Bell's Request for Specified Confidential Classification of this material on the grounds that release of this information would not "affect the ability to contract for and provide service on favorable terms." Moreover, the order indicates that:

"As to the IXC, in this case AT&T-C, Southern Bell may not maintain a Request for Confidential Treatment in its behalf." Order No. 21453, p. 2.

5. AT&T submits that the tentative ruling is erroneous on several grounds. First, as to the ruling that release of this information would not affect the ability of Southern Bell to contract for and provide service on favorable terms, AT&T submits that this type of ruling does, indeed, affect Southern Bell's ability to provide billing and collection services to AT&T and to other IXCs. The marketability of Southern Bell's billing and collection services is directly affected by Southern Bell's ability to protect from public disclosure the proprietary traffic data of those IXCs for which it performs such services. It is inconceivable that IXCs would be inclined to contract for LEC billing and collecting services under circumstances where this proprietary data could be subjected to public disclosure. Hence, disclosure of the proprietary confidential business information in this case could severely hamper Southern Bell's efforts to market its billing and collection services.

6. The Commission should also note that Southern Bell and other LECs also utilize traffic data of AT&T and other IXCs for network planning purposes. Such

information is often essential to the LEC in planning for the efficient utilization of the local exchange network. Rulings of the nature set forth in Order No. 21453 could restrict the ability of Southern Bell to obtain needed information, thereby hampering its efforts to conduct meaningful network planning and maximize network efficiency. Thus, such rulings will not only be detrimental to the interest of the LEC but also will be detrimental to the public interest.

7. AT&T further submits that the ruling that only AT&T, as the "owner" of the data, may submit a Request for Specified Confidential Classification of the subject material is erroneous. Rule 25-22.006(1)(i) defines the "source" of information to be:

"...the person, corporation or other entity who created, owns or is described by the material and whose interest may be affected by the disclosure of the material."  
(Emphasis added).

In this case, the proprietary confidential business information is created by Southern Bell when it bills an AT&T call. While AT&T may also be considered a "source" with attendant rights under other parts of Rule 25-22.006(1)(i), this does not diminish the fact that Southern Bell actually creates the information, and, as previously shown, Southern Bell's interest may be affected by disclosure of the material. Consequently, the ruling that only AT&T may file the request to have



such information exempted from the public records law is based on an erroneously restrictive interpretation of the rule. Such interpretation would extinguish Southern Bell's right to comply with the provisions under which it provides billing and collection services, and would restrict its ability to market such services in the future.

8. AT&T submits that departure from the Commission's prior practice of allowing LEC's to request specified confidential treatment of traffic studies which they compile is unwarranted. The positions taken in Order No. 21453 are not in accordance with the clear language of Rule 25-22.006, are harmful to the LECs, are harmful to the IXC's, and ultimately will be harmful to the general public. In ruling on this Protest, the Commission should be mindful of the fact that, in its subscription to Southern Bell's billing and collection services, AT&T is nothing more than a customer of Southern Bell. In this instance, AT&T should be treated the same as any other customer. Southern Bell should be permitted to seek and obtain Specified Confidential Classification of the subject information in the same manner as it would be permitted to seek and obtain

Specified Confidential Classification of information which it creates on behalf of any other customer which it serves.

WHEREFORE, AT&T Communications of the Southern States, Inc. respectfully requests that the Commission reverse the rulings set forth in Order No. 21453 and grant Southern Bell's Request for Specified Confidential Classification of the traffic study filed in this docket.

Respectfully submitted,



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315 S. Calhoun Street  
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(904) 224-5407

ATTORNEY FOR AT&T COMMUNICATIONS  
OF THE SOUTHERN STATES, INC.

CERTIFICATE OF SERVICE

Docket No. 870790-TL

I HEREBY CERTIFY that a true copy of the foregoing has been sent by U.S. Mail or hand-delivered to the following parties of record on this 14<sup>th</sup> day of July, 1989.

AllTel, Inc.  
Attn: Richard Brashear  
Post Office Box 550  
Live Oak, FL 32060

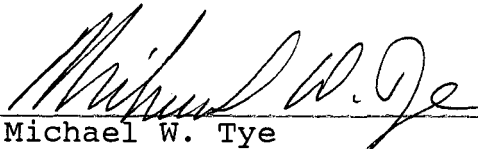
Southern Bell Telephone and  
Telegraph Company  
Harris R. Anthony, Esq.  
E. Barlow Keener, Esq.  
c/o: Marshall Criser  
150 South Monroe, #400  
Tallahassee, FL 32301

Board of County Commissioners  
Gilchrist County  
Attn: Mitzi Cockrell Austin  
Post Office Box 37  
Trenton, FL 32693

Norman Horton, Esq.  
Mason, Erwin & Horton  
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101 East Gaines Street  
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Walter D'Haeseleer  
Department of Communications  
Florida Public Service Comm.  
101 East Gaines Street  
Tallahassee, FL 32301

  
Michael W. Tye