



ORIGINAL

DISTRIBUTION CENTER

Ph: (540) 265.2555 • Fax: (540) 265.7742
P.O. Box 11845, Roanoke, VA 24022-1845

04 JAN 9 AM 10:47

040026-TP

January 8, 2004

Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

RECEIVED - FPSC
JAN - 9 AM 11:47
COMMISSION
CLERK

Re: CAT Communications International, Inc. v. BellSouth Telecommunications, Inc.

To Whom It May Concern:

Enclosed for filing is a Complaint Pleading regarding BellSouth's charging CAT Communications International, Inc. fees that should be charged to the service user and not the service supplier.

Thank you for your attention to this matter.

Sincerely,

Debra A. Waller
Paralegal
CAT Communications International, Inc.

CC: BellSouth Telecommunications, Inc.

DOCUMENT NUMBER DATE

00398 JAN-9 04

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICES COMMISSION

CAT COMMUNICATIONS)
INTERNATIONAL, INC.,)
)
Plaintiff)
)
v.)
)
BELLSOUTH)
TELECOMMUNICATIONS INC.)
)
Defendant)
)

**FORMAL COMPLAINT OF
CAT COMMUNICATIONS INTERNATIONAL, INC.
AGAINST BELLSOUTH TELECOMMUNICATIONS, INC.**

CAT Communications, International Inc. ("CCI"), in its Formal Complaint and Petition against BellSouth Telecommunications, Inc. ("BellSouth") before the Florida Public Services Commission ("the Commission") seeks an expedited Order finding BellSouth has breached applicable Florida statutes, and for such relief as may be appropriate. As set forth herein, in its dealings with CCI, BellSouth has violated and continues to violate federal and state law by unlawfully charging CCI for Emergency Telephone Service Charge and the Telecommunications Relay Services charges.

DOCUMENT NUMBER-DATE

00398 JAN-98

FPSC-COMMISSION CLEAR

PARTIES AND JURISDICTION

1. CCI is a corporation organized under the laws of the Commonwealth of Virginia with its principal place of business located at 3435 Chip Drive, N.E., Roanoke Virginia, 24012.
2. BellSouth is a corporation organized under the laws of the state of Georgia, with its principal place of business located at 1155 Peachtree Street, N.E. Atlanta, Georgia 30309.
3. BellSouth is a telephone company, which makes it a public service company engaging in and operating a utility business in the State of Florida. Therefore, the Commission possesses personal jurisdiction over BellSouth, pursuant to the Florida Statutes cited herein.
4. Correspondence on this matter should be sent to:

Stephen Athanson
General Counsel
CAT Communications International, Inc.
P.O. Box 11845
Roanoke, VA 24022-1845

FACTUAL BACKGROUND

1. CCI is a Competitive Local Exchange Carrier (“CLEC”) that began reselling local exchange services in Florida in 2000. By order dated October 15, 1999, CCI was granted a certificate of local authority to operate as a carrier of telecommunications services in Florida. See Docket Number 990773. CCI currently provides local exchange service to service users in Florida and is subject to the jurisdiction of the Florida Public Service Commission.
2. BellSouth is an incumbent local exchange carrier (“ILEC”) and exclusive provider of “last mile” telephone network equipment and transmission facilities in Florida. BellSouth currently provides local exchange service to service users in Florida and is subject to the jurisdiction of the Florida Public Service Commission.
3. In order to provide local exchange service, CCI currently purchases and resells BellSouth services pursuant to a resale agreement.
4. Pursuant to Title XXVII § 365.171 (13)(a)(1) of the 2003 Florida Statutes, CCI is obligated to collect certain surcharges from its service users. These include the emergency telephone service charge, which is imposed of service users to allow localities to recover the cost of implementing and maintaining “911” emergency services. In addition, surcharges are imposed on telephone companies to fund telecommunications relay services for the deaf or hearing-impaired

5. CCI collects these charges from its service users, and has collected these charges since it began doing business in Florida.
6. BellSouth imposes this charge on the lines it provides to CCI, lines which CCI resells and charges the fee to the service user.
7. Pursuant to Title XXVII § 365.171 (13)(a)(2) surcharges are imposed on the service user of the service, and not on the CLEC. Furthermore, the Statute is clear that it is the duty of the telephone company, in this case CCI, to impose these charges on their service users and remit the funds as set forth in Title XXVII § 365.171 (13)(a)(1).
8. The provider, who collects the surcharge, is entitled to retain an administrative fee from the funds collected, pursuant to Title XXVII § 365.171 (13)(a)(2) of the Florida Statutes. BellSouth's collection of these from CCI denies CCI its right to the administrative fee associated with the collection of the "911" fee.
9. Title XXVII § 365.171 (13)(a)(2) of the Florida Statutes requires the collection of "911" fees by the telephone company from its service users. The service provider, in this case CCI, is not required to take legal action to collect the fees. CCI is required, as stated in Title XXVII § 365.171 (13)(a)(4) of the Florida Statutes, to report to the county, on a quarterly basis, "a list of the names, addresses, and telephone numbers of any and all subscribers who have identified to the telephone company their refusal to pay the "911" fee."

BellSouth's collection of this fee on every line provided to CCI for resale robs CCI of its right to report service users who do not pay. In fact, CCI subsidizes

the nonpaying service user because CCI pays their "911" fee even when CCI is not paid by the service user.

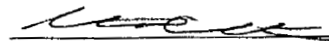
10. The Florida Statutes further "Require that all local exchange telecommunications companies to include the surcharge as a part of the local service charge that appears on the customer's bill..." Title XXX § 427.704(4)(a)(2).
11. CCI collects this fee as designated by statute. But the statute further states that the local exchange telecommunications company is allowed "...to deduct and retain 1 percent of the total surcharge amount collected each month to recover the billing, collecting, remitting and administrative costs attributed to the surcharge." CCI bills each of its customers for this surcharge, but rather than being able to offset its expenses by retaining one percent of the monies BellSouth collects the monies from CCI and retains the one percent, even though CCI collected the funds. Furthermore, as with the 911 surcharges, BellSouth collects this fee on all lines provided to CCI, even if the funds are never collected by CCI from the service user.
12. CCI as a reseller and CLEC has a large number of accounts that are uncollectible. The Statutes provide that the telephone company is not responsible for the collection or remittance of surcharges that cannot be collected from the service user. As previously stated, BellSouth collects all of the surcharges from CCI, even when the service user does not pay the surcharge to CCI, resulting in CCI paying surcharges it has not been able to collect from its service user.

13. In addition, BellSouth's collection of fees and surcharges for which CCI is liable leaves CCI vulnerable should BellSouth fail to properly pay these fees.

WHEREFORE, Plaintiff, CAT Communication International, Inc., respectfully requests the Commission issue an order:

- A. Directing BellSouth to cease and desist from charging or collecting "911" and other surcharges from CCI; to find CCI is lawfully entitled to collect these fees and surcharges from its service users; and
- B. Such other relief as the Commission deems just and reasonable.

Respectfully Submitted



Stephen Athanson
General Counsel
CAT Communications International, Inc.
P.O. Box 11845
Roanoke, VA 24022-1845
(540) 444-2169

Dated: 1/7/04