

ORIGINAL

TOM LEE
President

ALLAN BENSE
Speaker

STATE OF FLORIDA RECEIVED-FPSC
OFFICE OF PUBLIC COUNSEL

C/O THE FLORIDA LEGISLATURE
111 WEST MADISON ST.
ROOM 812
TALLAHASSEE, FLORIDA 32399-1400
850-488-9330

06 SEP 28 AM 11:53

COMMISSION
CLERK



Harold McLean
Public Counsel

EMAIL: OPC_WEBSITE@LEG.STATE.FL.US
WWW.FLORIDAOPC.GOV

September 28, 2006

Blanca S. Bayo, Director
Division of Commission Clerk and
Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 060650-TL

Dear Ms. Bayo:

Enclosed for filing are the original and 15 copies of Citizens and the Attorney General's Joint Petition Against BellSouth, Embarq and Verizon For Billing Charges Unauthorized by The telecommunications Consumer Protection Act and Request For Refunds.

Please indicate time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

Patricia A. Christensen
Associate Public Counsel

RECEIVED & FILED

FPSC BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

08987 SEP 28 06

FPSC-COMMISSION CLERK

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Joint Petition against BellSouth,
Embarq and Verizon for billing
charges not authorized by law and
request for refunds or credits to
consumers

Docket No.: 060650-TL

Filed: September 28, 2006

**JOINT PETITION AGAINST BELL SOUTH, EMBARQ AND VERIZON
FOR BILLING CHARGES UNAUTHORIZED BY THE
TELECOMMUNICATIONS CONSUMER PROTECTION ACT
AND REQUEST FOR REFUNDS**

The Citizens of the State of Florida (Citizens) and Attorney General Charles J. Crist, Jr. (the Attorney General), by and through undersigned counsel, pursuant to Chapter 120, Florida Statutes (2006); Rule 28-106.201, Florida Administrative Code; and Article V, Section 4 of the Florida Constitution file this Petition. Citizens and the Attorney General contend that BellSouth, Embarq and Verizon have included and continue to include in the telephone bills of Florida consumers charges that are not permitted by the Telecommunications Consumer Protection Act, Section 364.601 et seq., Florida Statutes (2006).

Citizens and the Attorney General request that BellSouth, Embarq and Verizon issue refunds or credit the consumers' bills for such charges relating to Email Discount Network, LLC (EDN). Further, Citizens and the Attorney General request that BellSouth, Embarq and Verizon cease and desist from placing charges unauthorized by the Telecommunications Consumer Protection Act on Florida consumers' telephone bills.

In support of their Petition, Citizens and the Attorney General state:

1. The name and address of the agency affected and the agency's file number:

DOCUMENT NUMBER-DATE

08987 SEP 28 06

FPSC-COMMISSION CLERK

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
Docket No.: _____

2. Citizens include customers of BellSouth, Embarq and Verizon whose substantial interests have been affected by BellSouth, Embarq and Verizon's practice of placing charges by entities such as EDN on their telephone bills.

3. Pursuant to Section 350.11, Florida Statutes (2006), Citizens who file this Petition are represented by the Office of Public Counsel ("Citizens" or "OPC") with the following address and telephone number:

Office of Public Counsel c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399-1400
Telephone No.: (850) 488-9330

4. The Attorney General files this Petition jointly with Citizens pursuant to Article V, Section 4 of the Florida Constitution as the chief state legal officer authorized to intervene in all actions affecting the citizens of Florida. *See State ex rel. Landis v. S.H. Kress & Co.*, 155 So. 823 (Fla. 1934); *State ex rel. Shevin v. Yarborough*, 257 So. 2d 891, 893 (Fla 1972); and *Shevin v. Kerwin*, 279 So. 2d 836, 838 (Fla. 1973). The Attorney General's address and telephone number are as follows:

Office of the Attorney General
The Capitol – PL01
Tallahassee, Florida 32399-1050
Telephone No.: (850) 414-3300

5. The following facts are at issue in this proceeding:

a. BellSouth, Embarq and Verizon have placed and continue to place charges on consumers' bills on behalf of entities called product providers or service providers. BellSouth, Embarq and Verizon place these charges on telephone bills pursuant to

agreements with companies called billing aggregators, who in turn enter into agreements with the entities that provide products or services.

b. EDN purports to provide Internet services such as email accounts to thousands of Florida consumers and charges them for these services on BellSouth, Embarq and Verizon telephone bills.

c. On the Internet, EDN employs deceptive representations in order to obtain the telephone numbers of consumers. EDN fails to clearly and conspicuously disclose that its purported services are not free and instead entail a non-refundable "activation fee" and monthly payments to be charged on telephone bills.

d. Once customers' telephone numbers are obtained by EDN by means of its deceptive representations, EDN submits the charges to a billing aggregator, which thereafter submits them to BellSouth, Embarq and Verizon to place on telephone bills.

e. Because EDN fails to verify the information it obtains from consumers on the Internet, EDN also places, through the aggregator, charges on the telephone bills of BellSouth, Embarq and Verizon customers who have never seen its web pages or given it any personal information.

f. BellSouth, Embarq and Verizon customers who are charged for EDN's purported services have told the Attorney General that they did not agree to pay for EDN services, did not want these services and did not use these services.

g. BellSouth, Embarq and Verizon have not adopted an accurate system of verifying, in advance of billing, whether consumers have authorized the charges that are placed on their bills. Instead, BellSouth, Embarq and Verizon rely on incoming complaints to determine if charges already imposed were proper. However, many

consumers do not complain because they are not aware that unauthorized charges are on their bills.

h. BellSouth, Embarq and Verizon charged and continue to charge consumers on their telephone bills for services that the consumers never agreed to pay for, do not want and do not use.

6. Under Sections 364.602(4) and (5), Florida Statutes, an Internet service such as EDN is not an "information service" that is entitled to bill as an "originating party" under the Florida Telecommunications Consumer Protection Act. BellSouth, Embarq and Verizon have failed, and continue to fail, to ensure that charges appearing on their telephone bills are authorized by the Telecommunications Consumer Protection Act.

7. BellSouth, Embarq and Verizon have failed and continue to fail to monitor adequately whether the charges on their bills are authorized by the consumers who are billed.

8. Citizens and the Attorney General seek that the Commission take the following actions:

a. Require BellSouth, Embarq and Verizon to issue refunds or credit on their telephone bills all charges for purported EDN services.

b. Require BellSouth, Embarq and Verizon to cease and desist from placing charges on their telephone bills that are not permitted by the Telecommunications Consumer Protection Act.

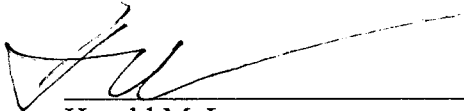
c. Require BellSouth, Embarq and Verizon to adopt practices ensuring that only charges authorized by consumers appear on telephone bills.

WHEREFORE, the Citizens and the Attorney General hereby request that the Commission grant its Petition and conduct a review pursuant to the provisions of Chapter 120, Florida Statutes.

Respectfully Submitted,

Harold McLean
Public Counsel

Charles J. Crist, Jr.
Attorney General



Harold McLean
Public Counsel
Florida Bar No. 193591
Office of the Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399-1400
(850) 488-9330
Fax: (850) 488-4491



Michael Palecki
Bureau Chief
Economic Crimes Division
Florida Bar No. 223824

Allison Finn
Assistant Attorney General
Florida Bar No. 0493805

Office of the Attorney General
The Capitol – PL01
Tallahassee, Florida 32399-1050
(850) 414-3300
Fax: (850) 488-4872

CERTIFICATE OF SERVICE

I, **HEREBY CERTIFY** that a true and correct copy of the Office of Public Counsel and Attorney General's Joint Petition had been furnished by electronic mail and U.S. Mail on this 28th day of September 2006, to the following:

Florida Public Service Commission
Blanca S. Bayo, Director
Division of Commission Clerk and Administrative
Services
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

BellSouth Telecommunications, Inc.
Jerry Hendrix
James Meza III
Manuel A. Gurdian
c/o Ms. Nancy S. Sims
150 South Monroe Street, Suite 400
Tallahassee, FL 32303-1556

Embarq Corporation
Susan S. Masterton
1313 Blair Stone Road
Post Office Box 2214
Tallahassee, FL 32316-2214

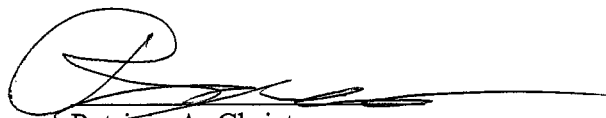
E. Earl Edenfield, Jr.
BellSouth Telecommunications, Inc.
675 West Peachtree St., Suite 4300
Atlanta, GA 30375-0001

Charles J. Rehwinkel
315 S. Calhoun Street, Suite 500
Tallahassee, FL 32301

Verizon Florida Inc.
David Christian
106 e. College Avenue Suite 710
Tallahassee, FL 32301-7721

Verizon Florida Inc
Dulaney L. O'Roark III
6 Concourse Parkway, Suite 600
Atlanta, GA 30328

Michael Cooke
General Counsel
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850


Patricia A. Christensen
Associate Public Counsel