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January 22, 2008

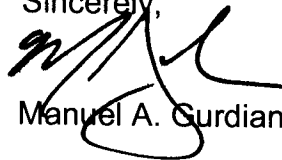
Ms. Ann Cole, Commission Clerk  
Office of the Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

**Re: Docket No.: 060476-TL: Petition to Initiate Rulemaking to  
amend Rules 25-24.630(1) and 25-24.516(1), F.A.C., by  
BellSouth Telecommunications, Inc.**

Dear Ms. Cole:

Enclosed is BellSouth Telecommunications, Inc. d/b/a AT&T Florida's  
Comments on Proposed Amendments to Rule 25-24.516 and 25-24.630, Florida  
Administrative Code, which we ask that you file in the captioned docket.

Sincerely,



Manuel A. Gurdian

cc: All Parties of Record  
Gregory R. Follensbee  
E. Earl Edenfield, Jr.  
Lisa S. Foshee

**CERTIFICATE OF SERVICE**  
**Docket No. 060476-TL**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Electronic Mail and First Class U. S. Mail this 22nd day of January, 2008 to the following Parties of Record and Interested Persons:

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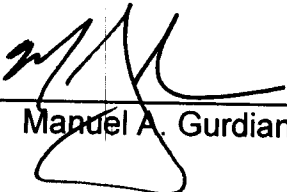
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Mandel A. Gurdian

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition by BellSouth Telecommunications, )  
Inc. to Initiate Rulemaking to Amend Rules ) Docket No.: 060476-TL  
25-24.630(1) and 25-24.516(1), Florida )  
Administrative Code )  
\_\_\_\_\_ ) January 22, 2008

**AT&T FLORIDA’S COMMENTS ON PROPOSED AMENDMENTS TO RULE  
25-24.516 AND 25-24.630, FLORIDA ADMINISTRATIVE CODE**

BellSouth Telecommunications, Inc. d/b/a AT&T Florida (“AT&T Florida”) submits the following comments in the above-captioned docket. As will be established below, the Florida Public Service Commission (“Commission”) should amend the current limitations set forth in Rules 25-24.630(1) and 25-24.516(1), Florida Administrative Code, (collectively “the Rules”), for all providers and set the allowable level of charges to a level that the competitive market will bear or eliminate the limitations entirely for local exchange telecommunications companies and intrastate interexchange telecommunications companies as permitted by Florida Statutes § 364.3376(1)(b). In support thereof, AT&T Florida submits the following comments:

**AT&T FLORIDA’S COMMENTS**

**A. Rule 25-24.516 Pay Telephone Rate Caps.**

The proposed rule provides as follows:

(2) For the following types of services, the Commission shall adjust the maximum rates annually based on the change in the Gross Domestic Product Fixed 1987 Weights Price Index less one percent. The adjusted rates shall take effect upon a final Commission order.

- (a) 0+ toll non-person-to-person.
- (b) 0+ toll person-to-person.
- (c) 0+ non-person-to-person local.

(d) 0+ toll person-to-person local.

**B. Rule 25-24.630 Rate and Billing Requirements.**

The proposed rule provides as follows:

(1) For the following types of intrastate services, excluding services provided in confinement facilities<sup>1</sup>, the Commission shall adjust the maximum rates annually based on the Gross Domestic Product Fixed 1987 Weights Price Index less one percent. The adjusted rates shall take effect upon a final Commission order.

(a) 0+ or 0- person-to-person call.

(b) 0+ or 0- non-person-to-person call.

**C. Proposed Methodology For Setting of Rates is Inappropriate For a Competitive Market**

AT&T Florida respectfully submits, that in the current competitive environment, it is in the public interest for the Commission to amend the current limitation set forth in the Rules for all providers and set the allowable level of charges to a level that the competitive market will bear or eliminate the limitations entirely for local exchange telecommunications companies and intrastate interexchange telecommunications companies as permitted by Florida Statutes § 364.3376(1)(b).<sup>2</sup>

Pursuant to Florida Statutes § 364.051(3), a local exchange telecommunications company may adjust its basic service revenues once a year in an amount not to exceed the change in inflation less 1 percent. Inflation is measured by the changes in the Gross

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<sup>1</sup> AT&T Florida believes that it maybe inappropriate for the Commission to establish a rate cap methodology which excludes confinement facilities from the proposed Rule. However, if the Commission were to set the allowable level of charges to a level that the competitive market will bear, then the exclusion of confinement facilities from the proposed Rule maybe appropriate.

<sup>2</sup>Florida Statutes § 364.3376(3) provides that “[f]or operator services, the commission shall establish maximum rates and charges for all providers of such services within the state”; however, Florida Statutes § 364.3376(1)(b) provides that “[t]his section does not apply to operator services provided by a local exchange telecommunications company or by an intrastate interexchange telecommunications company, except as required by the commission in the public interest.”

Domestic Product Fixed 1987 Weights Price Index. This is the same methodology proposed for the setting of operator service rates in the Rules. However, operator services are not a basic service but a non-basic service and using the basic service methodology for the setting of operator services rates is inappropriate.

The methodology of setting rates provided in the proposed Rule does not set the allowable level of charges to a level that the competitive market will bear. AT&T Florida believes that in the current competitive environment, the Commission can and should make a determination that the statutory mandate found in Florida Statutes § 364.3376(3) that the Commission establish “maximum rate and charges” means the rate which the competitive market will allow in Florida. However, if the Commission believes that F.S. § 364.3376(3) does not allow the Commission this flexibility, at a minimum, the Commission should set the “maximum rate and charge” as the rate charged by local exchange telecommunications companies in Florida as price-regulated local exchange telecommunications companies are already subject to a cap pursuant to Florida Statutes § 364.051.<sup>3</sup>

Today, AT&T Florida has two sets of customers for operator services: (1) customers capped pursuant to the Rules and (2) customers capped pursuant to the non-basic price cap found in Florida Statutes § 364.051. If the Commission believes it is necessary to set a maximum rate as well as a mechanism to handle increasing the rates to meet market conditions, AT&T Florida believes using the non-basic methodology for a highly competitive service is more appropriate than a mechanism designed, at the time, to

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<sup>3</sup> Florida Statutes § 364.051(5)(a), limits price increases by price-regulated local exchange companies for any non-basic category to 6% or 20% within a 12-month period, depending on whether or not there is another carrier providing local telecommunications service in a given exchange.

keep basic local telecommunications' service prices low in a developing competitive marketplace. Moreover, AT&T's operator services in none of the other eight former BellSouth states are capped by a maximum rate methodology. Across the former BellSouth region (excluding Florida), AT&T's tariff rate for non-person-to-person operator assisted calls is \$2.50 and for person-to-person operator assisted calls it is \$5.00. A review of operator service rates across the country reveals that the market rates for non-person-to-person operator assisted calls range from \$4.95 to \$6.50 and for person-to-person operator assisted calls the range is \$6.50 to \$12.50.

If the Commission does not believe the use of the ILEC rate is an appropriate measure for an across the board cap on this competitive service, AT&T Florida believes that pursuant to the provisions of F.S. § 364.3376(1)(b), the Commission should at least eliminate the Rules' rate cap for local exchange telecommunications companies since the non-basic cap found in F.S. § 364.051 applies to their provision of non-basic services and develop an appropriate rate level for the other portions of the operator services industry that do not have a specific cap. However, AT&T Florida strongly disagrees with the proposed cap methodology developed for the provision of basic local telecommunications service, a noncompetitive service in 1995, applying to operator services, a highly competitive service where customers have numerous alternatives available to them.

**D. FPSC Recognizes That Operator Services Is Competitive**

The Commission recognizes that operator services are "some of the most competitive" of services. *In re: Petition for waiver of Order PSC-96-0012-FOF-TL to consolidate number of non-basic service categories By Verizon Florida Inc.*, Docket No. 050294-TL, Order No. PSC-050602-PAA-TL at p. 3 (Issued June 1, 2005). The

Commission has also stated that operator services “face competitive pressures” and that there are a “plethora of alternatives” in the marketplace. *In re: Petition for waiver of Order PSC-96-0012-FOF-TL and request to establish modified price regulation categories by BellSouth Telecommunications, Inc.*, Docket No. 041213-TL, Order No. PSC-05-0184-PAA-TL at p. 3 (Issued February 17, 2005).

**E. FCC Recognizes That Operator Services Is Competitive**

In addition to the Commission recognizing that the operator services market is competitive, the Federal Communications Commission (“FCC”) has also recognized that operator services is competitive. *See In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC RCD 3696 (1999) (“UNE Remand Order”). “The record provides significant evidence of a wholesale market in the provision of OS/DA services and opportunities for self-provisioning OS/DA services.” *See id.* at ¶ 441. “The record demonstrates that a variety of alternative providers of OS/DA offer services at comparable cost and quality to those of the incumbents.” *See id.* at ¶ 446. “Competition in the provision of operator services and directory assistance has existed since divestiture.” *See id.* at ¶ 447. “It appears that this increasing availability of competitive OS/DA providers coincides with a decrease in incumbent LEC OS/DA call volumes. Evidence in the record indicates that call volumes to incumbent OS/DA services have declined steadily over the past few years.” *See id.* at ¶ 449. “There are a substantial number of regional and national alternative providers of OS/DA service that are serving a variety of customers, including some incumbent LECs and IXCs. . . we find that these alternative sources of OS/DA service are available as a

practical, economic and operational matter.” *See id.* at ¶ 464. In 2003, the FCC again recognized that the operator services market is competitive. *See In the Matter of Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338; 96-98 and 98-147, 18 FCC Rcd 16978, (2003). “We also reject the arguments of some parties that we should require incumbent LECs to provide unbundled access to Operator Services and Directory Assistance (OS/DA), contrary to the Commission’s finding that there was no impairment in the UNE Remand Order.” *Id.* at ¶ 560. “As the Commission concluded in the UNE Remand Order, there are multiple alternative providers of OS/DA that are available to competitive carriers and offer a level of quality similar to that of the incumbent LECs’ services.” *Id.*

**F. There are Numerous Competitive Alternatives In Florida**

For consumers, there are numerous competitive alternatives to choose from when deciding to make an operator assisted call. Some of these competitive alternatives include dial around services such as 1-800-COLLECT, prepaid calling cards, wireless services<sup>4</sup>, prepaid cell phones, Voice over Internet Protocol (“VoIP”) services, interactive paging and instant messaging. Moreover, there are no substantive barriers to entry into the operator services market in the state of Florida. Every wireless/pcs provider, local exchange carrier, competitive local exchange carrier, and interexchange carrier in the state of Florida is providing operator services or is technically capable and could easily provide operator service.

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<sup>4</sup> In Florida, wireless subscribership is higher than the number of local exchange wireline access lines. *See the Commission’s Report on the Status of Competition in the Telecommunications Industry*, p. 40 (May 31, 2006).



## **G. Conclusion**

In conclusion, AT&T Florida respectfully submits that it is no longer in the public interest for the Commission to require local exchange companies and intrastate interexchange telecommunications companies to comply with Florida Statutes § 364.3376 because operator services is a competitive market. In addition, Florida Statutes § 364.051(5)(a), limits price increases by price-regulated local exchange companies for any non-basic category to 6% or 20% within a 12-month period, depending on whether or not there is another carrier providing local telecommunications service in a given exchange. Furthermore, AT&T Florida believes that in the current competitive environment, the Commission can and should make a determination that the statutory mandate that the Commission establish “maximum rate and charges” means the rate which the competitive market will allow in Florida.

Accordingly, based upon the foregoing, AT&T Florida respectfully requests that the Commission amend the current limitations set forth in Rules 25-24.630(1) and 25-24.516(1), Florida Administrative Code, by eliminating the limitations entirely for local exchange telecommunications companies and intrastate interexchange telecommunications companies or, in the alternative, set the allowable charges to a level that the competitive market will bear.

Respectfully submitted this 22nd day of January, 2008.

AT&T FLORIDA



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