

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of the requirements )	DOCKET NO. 871394-TP
appropriate for Alternative Operator )	ORDER NO. 21050
Services and Public Telephones )	ISSUED: 4-14-89
_____)	

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman  
 THOMAS M. BEARD  
 GERALD L. GUNTER  
 JOHN T. HERNDON

ORDER GRANTING IN PART AND DENYING IN PART  
MOTIONS FOR RECONSIDERATION

BY THE COMMISSION:

CASE BACKGROUND

In August, 1988, we held a hearing to determine whether the provision of alternative operator services (AOS) by providers other than the local exchange companies (LECs) and AT&T Communications, Inc. (ATT-C) was in the public interest. By Order No. 20489, issued December 21, 1988, we announced our finding that AOS providers were in the public interest provided these companies comply with certain conditions we imposed upon their operations. Among the conditions we deemed necessary were that the companies could charge no more than the ATT-C time-of-day rate for a comparable call, that the companies could not bill for uncompleted calls, and that the companies would need to provide notice, in the form of tent-cards or stickers to their traffic aggregators in order to inform end-users of the operator services available from the aggregator's phone. Additionally, we adopted certain generic requirements regarding billing validation service (BVS). Currently, BVS is a tariffed service offered by Southern Bell Telephone and Telegraph Company (Southern Bell) that allows interexchange companies (IXCs) to verify that a Southern Bell calling card or access line can be used to bill calls that are made over an IXC's services. As a result of the evidence received at the hearing in this docket we determined that it was in the public interest to require all LECs to provide billing validation service and data to IXCs, as well as nonLEC pay telephone providers (PATS). Accordingly, we directed Southern Bell to revise the BVS tariff it had already filed and that we were considering in Docket No. 880649-TL, to conform with our decisions as a result of the AOS hearing. We also directed that all other LECs were to comply with our billing validation service policy by January 1, 1990, unless a LEC makes an appropriate showing no later than June 1, 1989, that the LEC is unable to comply.

Several parties have requested reconsideration of Order No. 20489. The majority of the issues raised in the parties' motions for reconsideration will be addressed at an upcoming agenda conference. However, on March 21, 1989, we addressed portions of the motions for reconsideration which requested

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that we reconsider certain action we took regarding the provision of billing validation service and data. Our decision herein is only intended to address reconsideration of our BVS decisions.

#### DISCUSSION

By Order No. 20489, we directed that BVS would be provided at cost with an appropriate amount of contribution. Southern Bell has asked that we reconsider our decision and allow the company to provide the service at cost. In Southern Bell's BVS tariff it proposed to offer the service at cost or \$0.09 per query. In its support data for the tariff Southern Bell explained that until BellSouth implemented its Line Information Data Base (LIDB) system in 1991, Southern Bell would have to contract with a third-party vendor to house the billing validation data. The cost to Southern Bell to contract with the vendor was estimated at \$0.06 per query, with Southern Bell's cost to offer the service to IXCs estimated at \$0.03 per query. Therefore, Southern Bell stated that the \$0.09 rate represented the internal and external costs to the company. Accordingly, Southern Bell argues that this rate is appropriate and that, furthermore, the rate is consistent with a recent decision at the federal level. In Order dated October 14, 1988, entered by U. S. District Judge Harold Greene in United States v Western Electric Company, Inc. (Civil Action No. 82-0192), Judge Greene reviewed the calling card practices of the Bell operating companies (BOCs) and determined that the BOCs:

have used their calling cards in ways that treat interexchange carriers unequally and discriminate in favor of ATT-C. (Opinion at pg. 11)

As a result, the Court mandated that the BOCs must cease discriminating in favor of ATT-C in the provision of validation data and must make the same data (not just a service) available to all IXCs, at the same price, terms and conditions as are extended to ATT-C. (Opinion at Pg. 17-18, fn. 34). Southern Bell maintains that there is currently no contribution above cost for the compilation and provision of such data to ATT-C, therefore, the \$0.09 rate per query should not be changed.

In its motion for reconsideration, Southern Bell also argued that it would encounter administrative problems if the rate charged in Florida was higher than that charged in other states, due to the fact that Southern Bell must rely on subscriber reported percentage interstate usage (PIU) factors to determine the amount of total revenue to be recorded to Florida. The company also argued that there is no difference in the cost of providing this service on an intrastate basis, therefore, there is no reason to have disparate rates.

The arguments presented above were arguments presented at hearing, therefore we do not believe that Southern Bell has presented us with information we failed to consider or overlooked in reaching our decision. However, we have decided to permit Southern Bell to offer the service at a rate equal to its cost. While we are not convinced that this rate is

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appropriate, we believe that the cost may be reduced once BellSouth integrates the service into its own system, thereby eliminating Southern Bell's need for a third-party vendor. Accordingly, at that time we shall reevaluate the rates.

In its motion for reconsideration, Southern Bell also sought reconsideration of our ruling requiring BVS be made available to nonLEC pay telephone providers (PATS), as well as IXCs. In its motion, Southern Bell argues that because the BVS tariff is part of the billing and collection section of the access tariff, and the access tariff is only available to certificated IXCs, the BVS tariff should likewise only be offered to IXCs. Additionally, Southern Bell argues that the need for the PATS providers to receive such services has not been established.

Florida Pay Telephone Association (FPTA) in its response to Southern Bell argues that Southern Bell's objection to providing the billing validation services to PATS providers was a philosophical objection without a basis in technical infeasibility. FPTA citing from the testimony of a Southern Bell witness states that the witness testified that access to the data base or services is accomplished in the same manner, irrespective of the type of carrier seeking access. FPTA also noted that the witness testified that while it is true that today only IXCs are issued a carrier identification code, (CIC), it is technically feasible to develop some type of identifier for the PATS providers if they did not receive IXC certificates and CICs.

Upon reconsideration, we reject Southern Bell's arguments and reaffirm our decision that BVS be made available to PATS providers. We find that the record demonstrates that the PATS providers have a need for this information and that they will benefit from the tariff. Furthermore, the record demonstrates that if it is necessary for a PATS provider to have an identification code before using the BVS an appropriate arrangement can be developed.

Finally, Southern Bell has asked that we reconsider our decision that the validation data, which we have ordered be provided directly to entities by tariff, be provided by contract. Southern Bell argues that is what Judge Harold Greene intended in his October 14, 1988, opinion and order when he specified that the direct offering of the data be accomplished by offering the data to IXCs under the same terms, conditions and prices as it is provided to ATT-C. Therefore, Southern Bell argues that since it provides this information to ATT-C by contract, it is required to do the same for IXCs. However, in its motion, Southern Bell also states that all significant contractual terms will be the same for all IXCs, including ATT-C. Accordingly, we see no reason for the existence of contracts, we believe tariffs will serve the same purpose by insuring uniformity. Therefore, Southern Bell's request for reconsideration is denied.

In its motion for reconsideration, Central Corporation (Central), an AOS provider, requests that we reconsider our ruling which prohibits the resale of billing validation service

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or data. Central argues that there is no evidence in the record to support a restriction on the resale of validation services or data and that by our action we have created a new monopoly without evidence that it is in the public interest. Southern Bell argues against Central's position, stating that the mere fact that a business does not make its proprietary information publicly available does not create an illegal monopoly, and that there are other methods of charging calls and validating the charges besides using the LECs' validation numbers.

While we are aware that other methods for validating charges do exist, the record demonstrated that those methods are inferior and not a reasonable substitute for BVS. Therefore, we reject Southern Bell's argument that since alternatives exist, BVS does not represent a monopoly service. However, we are not persuaded that a prohibition of the resale of BVS is necessary. Further, we agree with Southern Bell that the availability of Southern Bell's proprietary information requires certain restrictions. In particular, we believe that data should be used only for the purpose of verifying and/or validating calls. Therefore, we have determined that in lieu of a resale restriction the validation data tariff shall contain the following statement:

Billing validation data provides for use of the company's billing validation data base for the purpose of determining whether the calling card number being queried is valid for use in calling card telephone calls or, if the subscriber chooses, for validation of third number and collect calls.

We note that similar language is already part of Southern Bell's tariff filed in Docket No. 880649-TL.

Another decision for which Central seeks reconsideration is our ruling that a subscriber to BVS shall be required to validate all third-party billed calls. Central argued that there was no support in the record for our decision. Upon reconsideration, we note that Southern Bell has stated that the validation of third-party calls would be optional, and that there is no similar requirement placed on the local exchange companies or ATT-C to validate every third-party billed calls. Accordingly, we shall rescind our earlier ruling and permit third-party calls to be validated at the option of the subscriber to BVS.

Based upon the above considerations, we hereby determine that Southern Bell may provide BVS at cost; that third-party billed calls may be validated at the subscriber's option; and that, in lieu of a resale restriction, validation data tariffs shall contain the language stated above. However, we shall deny the request which sought reconsideration of our decision that BVS be provided to PATS providers and the request that Southern Bell be permitted to provide the validation data pursuant to contract. This docket shall remain open pending further reconsideration of Order No. 20489.

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Therefore, based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Motions for Reconsideration of Order No. 20489 filed by Southern Bell Telephone and Telegraph Company and Central Corporation are granted to the extent set forth in the body of this Order. It is further

ORDERED that Southern Bell Telephone and Telegraph Company shall be permitted to offer its billing validation service tariff at cost, as set forth in the body of this Order. It is further

ORDERED that in lieu of an absolute prohibition on the resale of validation data, a local exchange company's validation data tariff shall contain language, as set forth in the body of this Order. It is further

ORDERED that a subscriber to a billing validation service tariff shall not be required to validate all third-party billed calls, but instead may validate such calls at the subscriber's option. It is further

ORDERED that nonLEC pay telephone providers shall be given access to the billing validation service and data tariffs. It is further

ORDERED that the offering of billing validation data shall be accomplished pursuant to tariff. It is further

ORDERED that this docket remain open.

By ORDER of the Florida Public Service Commission, this 14th day of APRIL, 1989.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

DWS

Commissioner John T. Herndon dissented on the Commission's decision that Southern Bell's billing validation service be offered at cost.

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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 the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.