

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed tariff filings by)	DOCKET NO. 891194-TL
SOUTHERN BELL TELEPHONE AND TELEGRAPH)	
COMPANY clarifying when a non-published)	ORDER NO. 23791
number can be disclosed and introducing)	
Caller ID to TouchStar Service)	ISSUED: 11-21-90
)	

Pursuant to Notice, a Prehearing Conference was held on November 15, 1990, in Tallahassee, Florida, before Commissioner Betty Easley, as Prehearing Officer.

APPEARANCES:

DAVID M. FALGOUST, Esquire, 675 West Peachtree Street, N.E., Suite 4300, Atlanta, Georgia 30375, and E. BARLOW KEENER, Esquire, c/o Marshall M. Criser, III, 150 So. Monroe Street, Suite 400, Tallahassee, Florida 32301, on behalf of SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY.

THOMAS R. PARKER, Esquire, GTE Florida Incorporated, Post Office Box 110, MC 7, Tampa, Florida 33601, on behalf of GTE FLORIDA INCORPORATED.

ALAN N. BERG, Esquire, United Telephone Company of Florida, Post Office Box 5000, Altamonte Springs, Florida 32716-5000, on behalf of UNITED TELEPHONE COMPANY OF FLORIDA.

CHARLES J. BECK, Esquire, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400, on behalf of the CITIZENS OF THE STATE OF FLORIDA.

RICHARD E. DORAN, Esquire, Director, Criminal Appeals, Department of Legal Affairs, The Capitol, Tallahassee, Florida 32399-1050, on behalf of the ATTORNEY GENERAL OF FLORIDA.

PETER ANTONACCI, Esquire, Statewide Prosecutor, Office of Statewide Prosecution, The Capitol, PL-01, Tallahassee, Florida 32399-1050, on behalf of the OFFICE OF STATEWIDE PROSECUTION.

MICHAEL RAMAGE, Esquire, Florida Department of Law Enforcement, Post Office Box 1498, Tallahassee, Florida 32302, on behalf of the FLORIDA DEPARTMENT OF LAW ENFORCEMENT and the FLORIDA POLICE CHIEFS ASSOCIATION.

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JEFFREY L. COHEN, Esquire, Florida Medical Association, Post Office Box 2411, Jacksonville, Florida 32203, on behalf of the FLORIDA MEDICAL ASSOCIATION.

CHERYL R. PHOENIX, Director, and A. REBECCA DUNN, President, Florida Coalition Against Domestic Violence, Post Office Box 532041, Orlando, Florida 32853-2041, on behalf of the FLORIDA COALITION AGAINST DOMESTIC VIOLENCE.

STEPHEN S. MATHUES, Esquire, Department of General Services, Office of General Counsel, Knight Building, Suite 309, Koger Executive Center, 2737 Centerview Drive, Tallahassee, Florida 32399-0950, on behalf of the DEPARTMENT OF GENERAL SERVICES.

ANGELA B. GREEN, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0863, on behalf of the COMMISSION STAFF.

CYNTHIA B. MILLER, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0862, on behalf of the COMMISSIONERS.

PREHEARING ORDER

I. BACKGROUND

On September 29, 1989, Southern Bell Telephone and Telegraph Company (Southern Bell) filed two proposed tariff revisions: one adds Caller ID to its TouchStar features (T-89-507); the other clarifies the circumstances under which a nonpublished telephone number can be disclosed (T-89-506). At the time of these filings, we had several concerns about the appropriateness of these proposals. In response to our concerns, Southern Bell waived the statutory tariff suspension deadline for both filings to allow our staff additional time to research the issues raised by these proposals.

Three orders had been issued regarding these two tariff revisions: Order No. 22397, issued January 10, 1990; Order No. 22505, issued February 7, 1990; and Order No. 22704, issued March

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19, 1990. By these actions, we found Caller ID to be in the public interest but had not yet determined an effective date for the tariffs.

On June 7, 1990, the Office of Public Counsel (OPC) filed a Request for Hearings (Request) on these tariff proposals. OPC's Request asked for both customer hearings in the territory served by Southern Bell, as well as a formal evidentiary proceeding under Section 120.57(1), Florida Statutes. On June 19, 1990, Southern Bell filed its Response to OPC's Request for Hearings (Response). Southern Bell's Response urged us to deny OPC's Request.

At our July 17, 1990, Agenda Conference, we considered the question of whether it was appropriate to hold hearings in this matter, as well as what action, if any, should be taken on the tariffs pending the outcome of any hearings. To that end, we heard from all in attendance who wished to address these questions, without regard to whether they were parties or were seeking party status in this docket. The overwhelming view of those who spoke was that hearings should be convened before any further action is taken in this docket. In light of the strong sentiment expressed in this regard, Southern Bell's representative withdrew the Company's June 19th Response which had opposed granting the hearings requested by OPC. Accordingly, we found it appropriate to grant OPC's Request and to schedule customer hearings in the territory served by Southern Bell, as well as a Section 120.57(1) hearing on the tariffs. Further action on these tariffs is being held in abeyance, pending the outcome of the hearings. This decision is reflected in Order No. 23370, issued August 20, 1990.

Public hearings have been held in this matter at the following times and places: (1) September 25, 1990, 2:30 p.m. and 6:30 p.m., Holiday Inn, Orange Park, Florida; (2) September 26, 1990, 6:30 p.m., Holiday Inn International Park, Orlando, Florida; and (3) September 27, 1990, 10:00 a.m. and 6:30 p.m., Radisson Mart Plaza, Miami, Florida. The evidentiary hearing is scheduled for November 28 and 29, 1990, at our headquarters in Tallahassee, Florida.

At the Prehearing Conference on November 15, 1990, the procedures to govern the hearing were established.

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II. TESTIMONY AND EXHIBITS

Upon insertion of a witness's testimony, exhibits appended thereto may be marked for identification. After opportunity for opposing parties to object and cross-examine, the document may be moved into the record. All other exhibits will be similarly identified and entered at the appropriate time during hearing. Exhibits shall be moved into the record by exhibit number at the conclusion of a witness's testimony.

Witnesses are reminded that on cross-examination, responses to questions calling for a yes or no answer shall be answered yes or no first, after which the witness may explain the answer.

III. ORDER OF WITNESSES

<u>WITNESS</u>	<u>APPEARING FOR</u>	<u>DATE</u>	<u>ISSUES</u>
Nancy H. Sims <u>Direct/Rebuttal</u>	So. Bell	11/28	1, 5, 6, 7, 8, 9, 10, 11, 12, 13
Dr. Sue W. Elseewi <u>Direct/Rebuttal</u>	GTEFL	11/28	Consumer Reactions to Caller ID
Larry K. Radin <u>Direct</u>	GTEFL	11/28	GTEFL's efforts to address law enforcement's concerns about the service
W. C. Jones, Jr. <u>Direct</u>	United	11/28	All non-legal issues
C. Dean Kurtz <u>Rebuttal</u>	OPC	11/28	Availability of per-call blocking free to all customers and rate structure and price level for Call Trace

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<u>WITNESS</u>	<u>APPEARING FOR</u>	<u>DATE</u>	<u>ISSUES</u>
Dr. Mark N. Cooper <u>Direct/Rebuttal</u>	OPC	11/29	Caller ID and related services
Ron Tudor <u>Direct/Rebuttal</u>	FDLE	11/29	All non-legal issues
Cheryl R. Phoenix <u>Direct</u>	FCADV	11/29	Whether So. Bell should be allowed to introduce Caller ID as proposed
Joyce M. Brown <u>Direct</u>	FCADV	11/29	Whether So. Bell should be allowed to introduce Caller ID as proposed
A. Rebecca Dunn <u>Direct</u>	FCADV	11/29	Whether So. Bell should be allowed to introduce Caller ID as proposed
Glenn W. Mayne <u>Direct/Rebuttal</u>	DGS	11/29	Effect of the implementation of Caller ID and calling number blocking on: users of SUNCOM Network; 911 and E911; and the users of the Statewide 800 MHZ Trunked Radio System for State Agency Law Enforcement

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IV. BASIC POSITIONS

SO. BELL'S BASIC POSITION: Caller ID is a new optional Touchstar^(R) Service feature that allows the called party to see the calling party's telephone number displayed before answering the phone. Southern Bell believes that Caller ID will provide many benefits to residence and small business customers, and will result in a better balance between the interests of both the called and the calling party. In addition to enhancing a subscriber's call management capabilities, Caller ID will reduce the potential for obscene, annoying, harassing and fraudulent telephone calls. In the states where Caller ID has been approved and implemented, the response to it has been overwhelmingly favorable.

Southern Bell has worked closely with those groups which perceive that Caller ID presents them with serious risk. For instance, Southern Bell has worked extensively with law enforcement to develop solutions that will accomodate their needs and has developed a significant list of appropriate alternatives. Southern Bell will continue to work with law enforcement to meet special technical requests as long as they do not compromise the welfare of the company's overall customer body or the integrity of its network. Extensive work was also conducted to solve the concerns of HRS agencies.

Based on this Commission's thorough review of the issues regarding Caller ID, the tariff should be allowed to become effective immediately.

GTEFL'S BASIC POSITION: GTEFL recognizes the substantial social and economic benefits flowing from the rapid development and widespread deployment of CLASS services. Consistent with this principle, GTEFL believes that Caller ID should be made available on virtually all lines. At the same time, GTEFL is sensitive to concerns about Caller ID that have been raised by law enforcement operations and personnel. GTEFL plans to provide Protected Number Service to meet these concerns. In this way, GTEFL can best accommodate those groups with a legitimate need for anonymity, while maintaining the maximum utility of Caller ID services.

UNITED'S BASIC POSITION: Caller ID provides substantial benefits to consumers. United plans to file a tariff with the Florida Public Service Commission that will offer Caller ID to United's customers with the option of having free per-call blocking assigned

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to their line. This will not be a ubiquitous offering, but will only be provided to those who request the service. Normal service order charges will apply to any request for per-call blocking except during new service requests and during the initial 60 days after the tariff is approved when service order charges are waived to promote the ExpressTouch Service. There will not be a disconnect charge. Special considerations for customers with nonpublished numbers will not be required since they will be able to request free per-call blocking, just as anyone else.

OPC'S BASIC POSITION: The Commission should make Caller ID available with free, per-call blocking available to all customers. In addition, Call Trace should be made available to all customers with usage charges not exceeding \$1 per-call in order to make the service widely available to all customers. This combination of services will greatly enhance customers' call management capabilities, while at the same time it will take into account concerns about Caller ID service expressed by a wide range of customers.

While Southern Bell opposes free per-call blocking, their proposal has always included provisions making universal per-call blocking available to customers -- at a fee. Southern Bell encourages the use of calling card calls (charged at 75 cents per call), operator assisted calls (charged at \$1 per call), cellular telephone calls, out-dial only lines, Ringmaster, and pay phones to avoid the transmission of the calling party's number to the called party. Each of these mechanisms, however, provides an additional fee to Southern Bell.

The issue, then, is not whether to offer per-call blocking; the real issue is whether a price will be attached to per-call blocking.

ATTORNEY GENERAL, STATEWIDE PROSECUTOR, FDLE, AND FLA. POLICE CHIEFS' BASIC POSITION: The Attorney General, Statewide Prosecutor, FDLE and Florida Police Chiefs Association have very serious concerns over both the legality and practicality of introducing any form of Caller ID service in Florida. First, for reasons set out below, the Attorney General, the Statewide Prosecutor, and FDLE believe Caller ID, as proposed by Southern Bell in this tariff, may violate criminal statute §934.31, Fla. Stat., and that its implementation could constitute a misdemeanor

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of the first degree, punishable as provided in Florida Statutes §§775.082, 775.083 and 934.41.

Second, the Attorney General, Statewide Prosecutor, FDLE and Florida Police Chiefs Association submit that introduction of the Caller ID service would submit the hundreds of state and federal law enforcement agents working in the area of narcotics interdiction to the potential for serious personal injury or death. The attempts to reconcile the needs of law enforcement with the desires of Southern Bell to implement the service have not, despite good faith negotiating efforts, resulted in a compromise which would insure the safety of law enforcement officers and civilian operators involved in undercover narcotics or other criminal investigations. While some law enforcement officials or agencies may take a position contrary to the Attorney General, Statewide Prosecutor, FDLE or Florida Police Chiefs Association, it is our considered belief that nearly every major law enforcement agency at the state or federal level engaged in the specific task of drug interdiction and other complex undercover criminal investigations flatly opposes Caller ID.

Finally, the proponents of Caller ID as a method for intercepting and/or deterring obscene or harassing phone calls conveniently overlook the service known as Call Trace which provides that capability in a manner consistent with Florida's wiretapping laws. The Attorney General has previously communicated to this Commission his belief that a Call Trace option based upon a per call fee is a most effective method of combating obscene or harassing phone calls and prosecuting offenders. A similar communication has been provided to the Commission by FDLE Commissioner Tim Moore. Furthermore, the Attorney General has previously communicated to this Commission his concern that Caller ID mechanisms will provide those unlawful organizations dealing in commodities or security fraud, commonly known as "boiler room operators," a valuable tool for obtaining the telephone numbers of potential victims.

FMA'S BASIC POSITION: The FMA believes Caller ID constitutes a trap and trace device within the definition of Chapter 934, Florida Statutes, for which there is no exception. Moreover, the FMA believes Caller ID violates Article I, Section 23, the Right of Privacy Provision, of the Constitution of the State of Florida. A legal memorandum, attached to our prehearing statement, has been filed on these issues.

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FCADV's BASIC POSITION: Southern Bell has introduced a new TouchStar System, Caller ID, with added possible features of Per-Line and Per-Call Blocking. All current written positions from Southern Bell state that Caller ID will be available to anyone purchasing the display unit and subscribing to the monthly surcharge. Additionally, Per-Line Blocking will be available to Law Enforcement agencies and Domestic Violence Intervention Agencies. We have, to date, received no written confirmation that any blocking will be available to battered women or shelter employees.

FCADV is strongly opposed to Caller ID because of the lethal danger it will be to victims of domestic violence, workers who attempt to assist them, and their families. Battered women often go into hiding for fear of losing their lives, or the lives of their children and families. If Caller I.D. were approved as proposed, vital information would be given to abusers about the location of a battered woman who has to call her assailant for any of a number of reasons. This added information would allow a desperate abuser to carry out threats of kidnapping, assault or death to her, her children, or her family.

Two options are available to block Caller ID: Per-Line Blocking and Per-Call Blocking. FCADV has concerns with both services, but believes that they must be made available free-of-charge to all customers if Caller ID is approved. By doing less would be setting up thousands of battered women, shelter workers, and their families for future violence and possible death. The Public Service Commission must take its responsibility extremely seriously in this matter, as the issue has surpassed the lucrative advantages for Southern Bell and other businesses and becomes an issue of emotional and physical survival for thousands of Florida citizens.

FCADV would also like to support the offering of Call Trace on a per-use charge by Southern Bell, as other companies locally and nationally have done. We see that this could not only be a deterrent to the prosecution of harassing phone callers, but also of abusers who are violating court orders by continuing to harass and threaten battered women. If this is not considered in this docket, we will again support such a service at another time.

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DGS' BASIC POSITION: Caller ID is a beneficial feature, if per-call and per-line blocking are available on a universal basis. It is necessary for state agencies and their employees to have the ability to block the display of the telephone number from which they are calling.

STAFF'S BASIC POSITION: None pending discovery.

V. ISSUES AND POSITIONS:

ISSUE 1: (Informational) For the purposes of this docket, what is the definition of Caller ID?

SO. BELL'S POSITION: Caller ID is an optional Touchstar^(R) service proposed by Southern Bell that will permit the display of the number of a calling party on the called party's customer premises equipment ("CPE").

GTEFL'S POSITION: Caller ID describes a CLASS service that delivers calling party identification information to the called party's on-premises telephone equipment, which can display that identification information or use it for other identifying purposes. Currently, the calling party identification information delivered is the calling party's telephone number, which can be delivered via either Automatic Number Identification (ANI) or Calling Number Identification (CNI).

ANI, which is provided via a trunk-side connection to the serving central office, has traditionally been used by both exchange carriers and interexchange carriers to identify telephone numbers for billing purposes. ANI is currently provided as part of Feature Group B and D access service. ANI may also be used by interexchange carriers for non-billing purposes and by customers of interexchange carriers and local telephone companies for customer account verification and other purposes. CNI, which is provided via a line-side connection to the serving central office, is a service made available by deployment of Signaling System 7 ("SS7") to exchange carrier end offices. With SS7, CNI is delivered from the calling party's serving office to the called party's serving office and from the called party's serving office to the called party's telephone equipment. To provide CNI service, the office serving the calling party, the office serving the called party, and

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the interoffice telephone facilities must be equipped and interconnected with SS7 capability.

In the future, a number of alternative calling party identification methods, such as special coded identifiers or calling party names, may provide substitutes for ANI and CNI, depending on the application.

UNITED'S POSITION: Caller ID essentially has two definitions in today's environment, the first (more of a global term) encompassing the broad scope of passing information about the calling party through the network and the second (more of a specific term) being the actual Caller ID feature provided by Custom Local Area Signaling Service (ClassSM). In regard to the first definition of Caller ID, this broad form of calling party identity is referred to by United Telephone Company of Florida, Inc. (United) as Calling Party Identification (CPID) information. CPID has been broadly defined and developed within the Information Industry Liaison Committee (IILC) to encompass all forms of calling party identification information, including Caller ID (the feature), which automatically allows the called party to identify the calling party, station, or line. Additional forms of CPID include Automatic Number Identification (ANI), directory numbers, calling party name, calling party address, and personal identification codes. CPID delivery services are made available through such methods as Feature Group D access, Common Channel Signaling System 7 (SS7), Feature Group B access, CLASS, Simplified Message Desk Interface (SMDI), and Integrated Services Digital Network (ISDN).

The Caller ID feature is a subset of CPID. It enables the called customer to view, via a display unit, the primary telephone number of the calling party who initiated the incoming call. The display unit may be an adjunct device which sits next to the customer's telephone set or it may be a special telephone set with the display unit built into the telephone.

Caller ID is one of the CLASS features. United plans to file its tariff for the CLASS features under the name of ExpressTouchSM Service. Caller ID will only work on calls which originate and terminate within the CLASS equipped network area.

For the purposes of this docket, both definitions of Caller ID must be considered depending on the issues being addressed. Issues 2, 3, 4, and 5 deal with the broad CPID definition of Caller ID and

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the remaining issues are more directed towards the actual Caller ID feature and are answered accordingly.

United believes the differences, but more importantly, the similarities between the CPID and its Caller ID feature subset are important because while the method of providing Caller ID (the feature) is new, the act of sending information about the calling party through the network (CPID) is not new, and has been going on for years. CPID is an essential factor in meeting today's telecommunication needs and should hold no restrictions.

OPC'S POSITION: Caller ID is a service proposed by Southern Bell that would allow customers to use a display to show the called party's telephone number.

ATTORNEY GENERAL, STATEWIDE PROSECUTOR, FDLE AND FLA. POLICE CHIEFS' POSITION: Caller ID is a service proposed by Southern Bell that would allow customers to use a display to show the calling party's telephone number when they answer the telephone.

FMA'S POSITION: FMA adopts the response to the issue as stated by the Attorney General, the Statewide Prosecutor, FDLE, and the Florida Police Chiefs Association in their Joint Prehearing Statement (Joint Statement).

FCADV'S POSITION: Caller ID is a new TouchStar System option which allows subscribers to read the telephone number of a calling party through a purchased display unit. This allows the called party to determine who is calling before deciding whether to answer or not.

DGS' POSITION: Caller ID is the display of the calling party's telephone number to the called party prior to the called party answering the telephone. This is how the feature currently offered by Southern Bell is defined, but this docket should consider the planned expansion of the caller ID displayed information to include additional calling party related information.

STAFF'S POSITION: Caller ID, for the purposes of this docket, is any of the services under the BellCore category of Custom Local Area Signalling Services (CLASS) that provide the calling party's exchange number or other identification to the called party. The services include, but are not necessarily limited to, Caller IDsm, Bulk Calling Line Identification, etc. Caller ID is not synonymous with Automatic Number Identification (ANI). ANI is a separate

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technology which also allows calling party information to be passed through the telecommunications network.

ISSUE 2: [LEGAL] Is Caller ID a trap and trace device as described in Chapter 934, Florida Statutes?

SO. BELL'S POSITION: No. Section 934.02(21), Florida Statutes, defines a "Trap and trace device" as "a device which captures the incoming electronic or other impulses which identify the originating number of an instrument or device from which a wire or electronic communication was transmitted." The CPE unit that displays the calling number is not capable of an independent trap or trace function. Southern Bell's own technology used in its normal course of business provides the capability to identify the caller's number. The data that are allegedly "captured" and forwarded to the display unit are actually only a digital display of the numerical information owned by Southern Bell. Consequently, the purchase and subsequent use of the CPE display unit by a customer does not give the customer the independent power needed to capture any information and, therefore, does not constitute a "trap and trace" device. The technology that traps and traces the caller's number is now used on a daily basis by Southern Bell at the request of customers receiving harassing or annoying calls. The calling number information obtained in response to the request of the called party is then disclosed to a third party -- law enforcement. Caller ID service merely discloses the calling party's number to the recipient of the call instead of to law enforcement officials. This legal issue will be discussed more thoroughly in Southern Bell's post-hearing brief.

GTEFL'S POSITION: Caller ID does not fall within the statutory definition of trap and trace device. Fla. Stat. §934.02(21) describes a trap and trace mechanism as "a device which captures the incoming electronic or other impulses which identify the origination number of an instrument or a device from which a wire or electronic communication was transmitted." In contrast, the intelligence that enables calling number identification services to operate resides in the network itself, rather than in any instrument. Specifically, Caller ID relies upon the ability of the network to switch and transport the calling party's telephone number across the SS7 architecture to the called party's terminating end office switch.

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UNITED'S POSITION: No, Caller ID is not a trap and trace device as described in Chapter 934, Florida Statutes.

OPC'S POSITION: The Citizens will address this legal issue in our post-hearing brief.

ATTORNEY GENERAL, STATEWIDE PROSECUTOR, FDLE AND FLA. POLICE CHIEFS' POSITION: Caller ID, as proposed by Southern Bell, constitutes a trap and trace device as defined by §934.02(21), Fla. Stat. (1989). Pursuant to the statute, a trap-and-trace device is a device which "captures the incoming electronic or other impulses which identify the originating number of an instrument or a device from which a wire or electronic communication was transmitted."

FMA'S POSITION: FMA answers this issue affirmatively as outlined in the Legal Memorandum attached to its Prehearing Statement.

FCADV'S POSITION: No position at this time.

DGS' POSITION: DGS takes no position on this issue at this time, but reserves the right to do so at a later time.

STAFF'S POSITION: Staff takes no position at this time, pending submission and analysis of the parties' post-hearing briefs.

ISSUE 3: [LEGAL] Does Caller ID violate any federal laws or any laws of the State of Florida?

SO. BELL'S POSITION: No. Throughout the prehearing proceedings there have been allegations made that Caller ID violates Section 934, Florida Statutes, regarding the prohibition against a "trap and trace" device. Even if Caller ID service is considered to be a "trap and trace" device, it is clear from the plain language of Section 934.03(2)(i) and 934.31, Florida Statutes, that the service falls within at least one, if not all four, of the exceptions contained in the Statute. Those exceptions cover activities: (1) relating "to the protection of users of that service from abuse of service or unlawful use of service"; (2) "to protect...a user of that service from fraudulent, unlawful, or abusive use of service"; (3) "where the consent of the user of the service has been obtained"; or (4) as authorized "under federal law". 18 U.S.C. § 3121(b). Caller ID falls within the first exception because, as explained, the trap and trace of a caller's number is performed by the provider of the service (Southern Bell) for the protection of

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its customers. The service falls within the second exception because it is designed to protect persons who wish to subscribe to the service from fraudulent, unlawful, and abusive calls. Caller ID falls within the third exception to the trap and trace law because the party being called (i.e., the "user") has given his express consent to the implementation of Caller ID by subscribing to it. Fourth, the consent of only one party is required "under federal law" when a trap and trace device is used. These statutes are criminal statutes and are to be construed strictly and all doubts are to be resolved in favor of the prospective user of the Caller ID service. Any ambiguity must be resolved against the state. The trap and trace statute was copied word for word from the federal statute and the Florida Legislature expressly stated that a trap and trace device may be used as authorized "under federal law." Federal law clearly allows a trap and trace device to be used with the consent of only one user. Thus, if Caller ID is considered a trap and trace device, it would still be legal under Florida law because the party being called has given his express consent to the implementation of the service by subscribing to it. This legal issue will be discussed more thoroughly in Southern Bell's post-hearing brief.

GTEFL'S POSITION: Caller ID does not violate any federal or Florida state laws. The provisions of potential relevance to the legal analysis of Caller ID are the Electronic Communications Privacy Act ("ECPA"), on the federal level; and Chapter 934 of the Florida Statutes, in the state arena. The Florida statutory scheme closely tracks federal law in all respects relevant to the instant inquiry, as it was expressly revised to conform to the ECPA.

As the above response to question 2 explains, calling number identification services, such as Caller ID, cannot be categorized as trap and trace devices under Florida law. Analysis under federal law yields the same conclusion, since the ECPA definition of "trap and trace device," 18 U.S.C.A. §3127(3), is identical to that set forth in Fla. Stat. §934.02(21). Therefore, Caller ID service does not fall within either the state or federal provisions governing interception of communications. Legislative history supports this view, clarifying that these laws were intended to address surreptitious interception only. See, e.g., S. Rep. No. 541, 99th Cong., 2d Sess. 3 (1986).

Even if the Caller ID feature could be considered a trap and trace device, it falls squarely within an exception permitting use

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of these devices without the court order otherwise required. This exception, found in both the federal and state schemes, allows the installation of a trap and trace device where the consent of the user of the service has been obtained. Fla. Stat. §934.31(2)(c); 18 U.S.C.A. 3121 (b)(3). Under the only plausible reading of this provision, the consumer's subscription to Caller ID service necessarily constitutes compliance with the statutory consent requirement.

UNITED'S POSITION: No, Caller ID does not violate any federal law or any laws of the State of Florida.

OPC'S POSITION: The Citizens will address this legal issue in our post-hearing brief.

ATTORNEY GENERAL, STATEWIDE PROSECUTOR, FDLE, AND FLA. POLICE CHIEFS' POSITION: Florida Statutes §934.31 and 18 U.S.C. §3121 both prohibit the general use of pen registers and trap and trace devices except in three defined situations. Ongoing research indicates that the United States Congress did not intend to allow telephone companies to avoid the general prohibition against trap and trace devices when 18 U.S.C. §3121 was enacted. To quote the Congressional Research Service of the Library of Congress: "The Act's legislative history fails to refute the plain meaning of the Act's language and may be read to confirm that Congress intended the Act's proscription to apply to such cases [Caller ID]. None of the act's exceptions appear applicable under most circumstances."

Because Florida's law mirrors the federal statute, it appears that Caller ID would violate both the federal and state statutes. We intend to continue our research and provide the Commission with further direction as part of our legal briefing.

FMA'S POSITION: FMA answers this issue affirmatively as outlined in the Legal Memorandum attached to its Prehearing Statement.

FCADV'S POSITION: No position at this time.

DGS' POSITION: DGS takes no position on this issue at this time, but reserves the right to do so at a later time.

STAFF'S POSITION: Staff takes no position at this time, pending submission and analysis of the parties' post-hearing briefs.

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ISSUE 4: [LEGAL] Does Caller ID violate Florida's Constitution?

SO. BELL'S POSITION: No. The Florida Constitution provides in Article 1, Section 23 that:

Every natural person has the right to be let alone and free from governmental intrusion into his private life except as otherwise provided herein....

Thus, in Florida it is clear that a violation of a right of privacy requires a "governmental intrusion." See, Shaktman v. State, 553 So.2d 148 (Fla. 1989). Before constitutional restraints apply, there must necessarily be "state action." Actions by private individuals and entities are clearly not subject to constitutional restrictions. See, Shelley v. Kramer, 334 U.S. 1 (1948). Evans v. Abney, 396 U.S. 435, 445 (1970); Moose Lodge No. 107 v. Irvis, 407 U.S. 163, 171-179 (1972). Southern Bell is a private entity with no connection to the state other than its regulation by the Florida Public Service Commission ("Commission"). The Commission's involvement in the approval of Caller ID has been limited to the standard approval process that Southern Bell must follow regarding the offering of new services. Section 364.05, Florida Statutes. The Commission did not suggest, much less require, the implementation of Caller ID service. The limited action taken by the Commission in this proceeding does not constitute the requisite state action necessary to invoke constitutional restraints. Carlin v. Southern Bell, 802 F2d 1352 (11 Cir. 1986). Jackson v. Metropolitan Edison Co., 419 U.S. 345 (1974).

Even if the approval of Southern Bell's Caller ID service did constitute the state action required to invoke the application of constitutional limitations, which it does not, Caller ID service violates no constitutionally cognizable privacy interest. Southern Bell's Caller ID service merely protects the right to be left alone. Just as a "peep hole" allows one to know who knocks at his door, Caller ID service merely alerts the subscriber to the telephone number of the calling party. Moreover, pursuant to Southern Bell's General Subscriber Services Tariff A2.2.2a: "The calling party shall establish his identity in the course of any communication as often as may be necessary." The mere transmission and display of the calling party's telephone number cannot possibly invade his privacy. The calling party must already disclose his identity during the course of the call.

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It is important to note that in this particular situation there are competing interests. The calling party has an interest in anonymity. On the other hand, the called party has an interest in not receiving harassing, fraudulent, unlawful or abusive calls. The interest of the calling party that his telephone number not be displayed is greatly, if not completely, reduced, however, by the fact that the calling party is presently required to disclose his identity on every call.

The caller is not a passive or unwilling individual. He voluntarily conveys his telephone number as well as the telephone numbers to which he is placing a call into the telephone company system. The substantial interest that will be served by Caller ID service greatly outweighs any interest in the calling party in keeping his number secret from persons whom he chooses to call. This legal issue will be discussed more thoroughly in Southern Bell's post-hearing brief.

GTEFL'S POSITION: Caller ID does not violate Florida's Constitution. Consideration of the privacy issues that have been linked with Caller ID may prompt an examination of Article I, §23 of the Florida Constitution. This section states, in relevant part, that: "Every natural person has the right to be let alone and free from governmental intrusion into his private life except as otherwise provided herein." The language of this section is unambiguous; it is concerned only with governmental intrusions into one's privacy. Caller ID, however, is activated upon the request of the individual subscriber and is utilized as that person chooses. Thus, the service does not violate Florida's constitutional privacy restrictions on government invasions of privacy. On the contrary, Caller ID promotes the constitutionally granted "right to be let alone" because it allows the consumer to accept or reject calls as he chooses.

Even if Caller ID did implicate Article I, §23, one cannot presume that any anonymity interest of the calling party supersedes the privacy interest of the called party. As set forth more fully in the following responses, a subscriber is, at various times, both a called and calling party. This factor must be considered in devising a Caller ID policy that best serves the public interest. Above all, it is essential to remember that the existence of anonymity concerns in no way compels the conclusion that the service should not be offered.

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UNITED'S POSITION: No, Caller ID does not violate Florida's Constitution.

OPC'S POSITION: The Citizens will address this legal issue in our post-hearing brief.

ATTORNEY GENERAL, STATEWIDE PROSECUTOR, FDLE, AND FLA. POLICE CHIEFS' POSITION: The Attorney General, Statewide Prosecutor, FDLE and Florida Police Chiefs Association are currently researching Florida's Right to Privacy Law, Article 1, §23, Florida Constitution, and attendant Supreme Court of Florida case law in an effort to answer this question. Based on the court's recent decision in Shaktman v. State, 553 So.2d 148 (Fla. 1989), in which the court held that the telephone numbers of an individual may not be intercepted by other parties through use of a pen register absent a compelling governmental interest such as enforcement of Florida's criminal laws, we have serious concerns over the potential infringement of individual caller privacy. We intend to continue our research and provide the Commission with further direction on this point as part of our legal briefing.

FMA'S POSITION: FMA answers this issue affirmatively as outlined in the Legal Memorandum attached to its Prehearing Statement.

FCADV'S POSITION: No position at this time.

DGS' POSITION: DGS takes no position on this issue at this time, but reserves the right to do so at a later time.

STAFF'S POSITION: Staff takes no position at this time, pending submission and analysis of the parties' post-hearing briefs.

ISSUE 5: What are the benefits and detriments to Florida's consumers of Caller ID services?

SO. BELL'S POSITION: Caller ID will give the customer control of incoming calls since customers can choose which calls to answer. For example, customers often get solicitation calls around dinner time. Caller ID will help them decide whether they want to answer such calls.

Caller ID will discourage obscene/annoying/harassing calls. With Caller ID, annoyance callers will have to be concerned that

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the called party will obtain their number, making them far more reluctant to make such calls. Caller ID will increase the customers' sense of security and privacy by allowing them to choose which calls to answer. Caller ID will provide a more secure method of access to business databases from the home. Computers can be programmed to accept calls from authorized numbers only. This decreases the threat of hackers.

Caller ID can assist deaf customers by providing a way for them to distinguish incoming calls that they wish to answer immediately with a telecommunications device for deaf persons (TDD) from those that they wish to have answered with an automated recording/announcement device.

Caller ID allows customers to store telephone numbers of missed calls so that they can be returned later.

Caller ID will provide small businesses with the ability to personalize business services, thereby giving prompt, efficient service.

Caller ID gives businesses which provide delivery services based on orders received over the phone a quick and easy way to verify the accuracy of the information before accepting the order or sending the requested product. Caller ID will assist in reducing the occurrence of fraudulent orders and reduce expenses for businesses that accept telephone orders as well as reduce the risk of harm to delivery personnel.

Some of the benefits to the public over and above those described previously include: Caller ID will reduce false fire alarms and bomb threats; Caller ID will reduce prank calls to law enforcement and other public safety agencies. Caller ID can be used by law enforcement to verify that persons on parole or "house arrest" are calling from an appropriate location. Caller ID can be used to provide additional information to assist emergency services providers.

Southern Bell believes that for most Florida consumers Caller ID provides benefits rather than detriments. However, for a small segment of subscribers, such as law enforcement and domestic violence intervention agencies, the delivery of the caller's number appears to be of particular concern. Southern Bell, however,

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believes that it has adequately met the concerns of those groups by developing and offering various blocking options.

GTEFL'S POSITION: The benefits of Caller ID and related services are numerous. The service can provide increased privacy protection to residential subscribers, improved law enforcement and public safety capabilities, and opportunities for improved productivity and effectiveness to business customers. For example:

- Residential customers can use Caller ID to protect their privacy interests by screening calls, prioritizing calls, identifying the source of annoying or obscene telephone calls, and identifying callers who might refuse to identify themselves.

- From a security and public safety perspective, Caller ID can be used not only to identify nuisance or obscene callers, but also to track bomb threats and false fire alarms. Emergency service personnel currently use a type of Caller ID as part of E911-type services, but Caller ID could also improve the effectiveness of law enforcement and other public safety organizations in responding to emergency calls that are not placed via E911. Some states are considering using Caller ID in Telecommunications Device for the Deaf ("TDD") Relay centers so that the information would be available for an emergency or for calls subsequently sent to 911 centers, in addition to its use for billing purposes.

Businesses can use Caller ID in various ways to improve business productivity:

- Businesses can use Caller ID for call distribution. When a call is received by the main number, it can be automatically routed to the appropriate service representative and by automatically cross-referencing the customer's telephone number to appropriate data bases, the customer's account information and profile can be automatically displayed before the call is even answered. This capability yields greater productivity and faster and more accurate responses to consumers' inquiries, since keying errors would be eliminated.

- Businesses such as pizza parlors can use Caller ID to verify phone numbers just as a pizza parlor may verify phone numbers for deliveries to eliminate prank orders and falsified information.

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- In some cases, Caller ID may be matched or translated to location data to provide additional applications. A bank, for example, could indicate automatically via a Voice Response Unit to a caller calling from a pay telephone the location of the closest Automatic Teller Machine.

- Caller ID, coupled with Personal Identification Numbers, passwords, etc., can provide secure access to software or data base services or capabilities. In this case, Caller ID is a network-provided "password" that is safe from tampering, falsification, or theft by unauthorized users.

- For cable television companies, Caller ID can permit verification of accounts, customer telephone numbers, and individual requests for pay-per-view services.

- Caller ID can provide the basis for determining what services have been selected by the incoming caller, allowing the call to be routed to an appropriate program or data base, such as selection of "weather" vs. "sports" from an audiotex service.

- Through association of Caller ID and other customer account status information, incoming callers' access to certain program or data base services could be blocked if the account is delinquent.

Concerns with respect to Caller ID service have been focused primarily on the loss of anonymity of the calling party. Some parties have expressed concern that Caller ID will compromise the security of police undercover agents. Concerns have also been expressed by some social service organizations (such as "hot lines") that the confidentiality of callers will be compromised and by battered spouse organizations that the location of the battered spouse will be revealed through Caller ID. Some parties believe that telephone numbers for nonpublished customers should not be delivered to the called party. Some have argued that all customers should have a choice about forwarding their number to a third party. While GTE Florida is sensitive to these concerns, as discussed in the responses to the following issues, most of the concerns can be alleviated through existing or future network capabilities.

UNITED'S POSITION: The capability to pass information about the calling number through the network provides substantial benefits to consumers. This capability has made new services possible, such as

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Pay-Per-View TV or the 900/976 services, which use the calling party's telephone number for billing purposes. It has also enabled the telecommunication network to offer worldwide 1+ dialing, making calling around the world almost as easy as calling across town. United recognizes that the passing of this information may sometimes create concerns for those interested in maintaining their anonymity. Reduced calls to hot lines, displaying of nonpublished numbers, "junk" calls from telemarketing, "redlining" of calls from specific areas, and safety concerns for law enforcement agencies and violence related social service agencies are potential problems being attributed to Caller ID (the feature). With the exception of the law enforcement and/or social agencies, United does not believe these problems with Caller ID will materialize, based on the performance of Caller ID in areas where it is available. While United is not aware of a safety problem which has been caused by Caller ID, it recognizes the potential hazard and has developed methods to alleviate these problems. The capabilities of Caller ID to reduce harassment, screen calls, aid in emergency situations, enhance security and control over the telephone, and provide a means for many new products are a substantial benefit to the consumer of Caller ID services.

OPC'S POSITION: Caller ID is one of a number of services using the new signalling system 7 technology that embodies significant potential to enhance subscribers' call management capabilities. Free number forward blocking (free per-call blocking) will strike the best balance between the potential costs and benefits of this new technology. Free per-call blocking provides a significant benefit to the vast body of subscribers by allowing them to preserve the privacy of their telephone number, while also preserving the functionality and usefulness of the overall signalling system 7 technology.

There is significant concern by the public about unrestricted Caller ID. For example, a Lou Harris poll shows that when the positive and negative aspects of Caller ID are pointed out, less than one quarter say the service should be allowed without restriction. Almost half the respondents say the service should be allowed only if the ability to prevent the forwarding of a telephone number is made available. Over one quarter say the service should simply not be allowed.

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Even more important, Caller ID service actually threatens the physical safety of a number of groups of people, such as battered spouses and undercover law enforcement personnel.

ATTORNEY GENERAL, STATEWIDE PROSECUTOR, FDLE, AND FLA. POLICE CHIEFS' POSITION: Caller ID has been touted as a method to protect phone customers from obscene or harassing telephone calls. Given the existence of competing technologies such as Call Trace (which accomplishes the same task) and the absence of any other expressed rationale for its implementation, it is our position that the service is of little benefit to the consumers of Florida. On the negative side, the service offers the real risk of serious injury or death to Florida's law enforcement officers and also provides "boiler room operators" with an important tool to enable them to prey upon potential victims of their fraudulent schemes. Furthermore, Caller ID would disrupt the prevalent and long established practice of allowing individuals to obtain, at a cost, an unlisted telephone number by obliging those individuals holding such numbers to purchase the number and then pay for repeat protection by the purchase of Call Blocking. Thus, the services are of little or no benefit yet offer the potential for extreme detriment to law enforcement officers, potential victims of crime and existing telephone customers.

FMA'S POSITION: FMA adopts the response to the issue as stated in the Joint Statement.

FCADV'S POSITION: The benefits of Caller ID for consumers are limited in scope: the called party can see the number from which a caller is calling before deciding whether or not to answer the phone. This benefit can also be accomplished by the consumer purchasing an answering machine. Another benefit for the consumer is knowing the telephone number of callers. This, however, is a detriment to the caller who has lost her/his right to privacy. This information also gives the subscriber power to decide what to do if s/he is receiving annoying or harassing phone calls. This can very clearly be dangerous for angry recipients who choose to retaliate for any perceived slight.

The detriments to Florida's citizens, not just Caller ID consumers, are the loss of privacy and the potentially explosive situations mentioned. Other detriments are the possible loss of privilege that could occur if a business chooses not to service a caller from certain areas, regardless of other factors. Another

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detriment includes the probable increase in telemarketing calls, which will benefit businesses but not citizens.

The most distressful detriment that is seen by FCADV is the use of the given information by abusive partners, who can then determine where an estranged battered woman is and harass, assault, or kill her or anyone else in that residence. There is also concern for domestic violence workers and other professionals who often return calls from their homes and thus will be exposed to the caller. The potential for danger clearly outweighs the benefits of this system for thousands of Florida citizens.

DGS' POSITION: The benefits to Florida consumers are vast ranging from receiving a courteous friendly voice when calling to accessing a user-driven inquiries system. The detriments are more defined and focused to the harm caused by the forced display of the calling numbers of state agencies when anonymity is needed for the performance of the state agencies' duties.

STAFF'S POSITION: Caller ID is expected to significantly reduce obscene, harrassing, and annoying telephone calls. It is also expected to facilitate business transactions conducted over the telecommunications network. Caller ID's detriments could include the difficulty or inability for entities wishing to legitimately retain their anonymity to use the telephone network. Caller ID could also provide yet another avenue for mass marketing entities to gather information on customers for future solicitation.

ISSUE 6: Are there any existing CLASS services (e.g., Call Trace, Call Return, Call Block, etc.) that have similar functions and/or benefits as Caller ID; if so, what are their detriments? Is their rate structure appropriate?

SO. BELL'S POSITION: The objective of Southern Bell's introduction of Touchstar^(R) features is to provide a range of services whereby the called party can have more control over his telephone, and both the called party and the calling party can choose options to tailor their telephone service to suit their individual needs. While there is a possibility of cross elasticity among the Touchstar features, only Caller ID displays the telephone number of the party who is calling. There seems to be a general misunderstanding that Call Trace, Call Return and Call Block are equivalent or comparable to Caller ID. They are not.

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Following is a comparison of the features offered by each service:

Call Block - allows the customer to block calls from the last number that called. It also allows the customer to program blocking for up to six numbers. In contrast to Caller ID, Call Block does not identify the number of the party making the call. Nor does it let the customer know who is calling before answering the call. In fact, call block works by preventing the completion of the call.

Call Return - redials the last phone number that called. It works only on the last call; information on previous calls is unavailable. Unlike Caller ID, call return does not identify the number of the party making the call. Call Return is effective only to the extent that the other party picks up the phone when the call is returned. If that person doesn't answer, call return is ineffective. With Caller ID a subscriber can identify repetitive calls from the same caller, which he cannot do with call return.

Call Tracing - this Touchstar^(R) feature allows the customer to activate a system that records the number of a person making a call. The customer can then ask Southern Bell to investigate. Call Tracing does not let the customer know the identity of the annoying caller, even if Southern Bell investigates the case. It does not let the customer know who is calling before answering the call. Therefore, a person may keep answering calls from the same caller. Call Tracing does not immediately identify the number of the person making the call as does Caller ID. In a crisis situation, such as a potential suicide, the called party would have to hang up before the trace could be initiated, which would jeopardize the rescue effort. In contrast, Caller ID provides an immediate vehicle to determine the calling number and thereby allow rescue efforts while keeping the caller on the line.

Caller ID - lets the called party know the number of the calling party before picking up the phone, and depending on the type of CPE used, may store telephone numbers of callers.

Southern Bell believes the rate structure for each of the existing Touchstar^(R) services is appropriate for residential and small business applications. For example, Call Tracing was originally offered in a trial on a per-call basis in one location and on a monthly basis in another location. Based on the results

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of those trials, Southern Bell elected to offer Call Tracing on a monthly flat rate basis in order to reflect customers' preference and to generate revenues sufficient to cover the cost of the service and to provide contribution to support basic local exchange service.

GTEFL'S POSITION: No existing CLASS service is able to function as an effective substitute for Caller ID. While certain other services offer similar types of advantages, none can provide the set of benefits specific to Caller ID. Perhaps most importantly, no other service can provide the unrestricted call screening function that is the primary distinctive feature of Caller ID. For instance, Call Return stores and redials only the last incoming number, while the Caller ID hardware is able to store multiple numbers. Call Block requires the recipient of an annoyance call from an unknown number to first listen to the call before adding the number to the blocking list. Further, since Call Block will not allow completion of a call from a listed number, the subscriber may not choose to accept a call from that number only in particular instances. Call Tracing Service is a tool for emergency use, rather than a general screening device. It provides legal documentation to aid in prosecuting harassing callers. Since Call Tracing provides no means to stop offensive calls before the point at which the telephone company is permitted to disconnect service, it lacks the deterrent potential of Caller ID. Moreover, Call Tracing will not be effective in preventing calls which are not obscene, but that a caller does not want to accept such as calls from marketing organizations.

Caller ID has none of these limitations. It gives the customer the freedom to choose how to screen his calls. The customer can choose to answer only calls from familiar numbers, he can answer all calls except those from specific numbers, or he can pick and choose when he will accept or reject calls from unrecognized numbers. In this way, the Caller ID subscriber is provided the optimal ability to be let alone from intrusive telephone calls.

The rate structures that will apply to the GTE CLASS offerings are appropriate and consistent with the particular functions of each service. Each service covers its costs, with rates set on the basis of market considerations and comparisons with other, similar services.

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In short, all of the CLASS services are distinct from one another and each is tailored to address a specific demand. GTEFL believes that allowing the consumer to choose the service that best suits his needs is the only course consonant with the public interest.

UNITED'S POSITION:

Functionality: Caller ID's basic and main function, as proposed by United, is to let the called party know the telephone number of the calling party prior to the called party answering the telephone. None of the other CLASS features, with the exception of Call Selector, can duplicate this functionality. This function by Call Selector is available only when one specific number at any one time is stored in the Call Selector data base. When that number calls, only that one number will ring with a distinctive ring, thereby identifying the specific calling number prior to the Customer answering the telephone.

Benefit: The benefit of Caller ID, as with its functionality, is not shared by the other CLASS features. Caller ID allows the called party to know, even before picking up the telephone, the telephone number of the incoming call. The customer can use this information in many ways, such as not answering the telephone, deterring further harassing calls, answering according to the incoming number, or automatically pulling up information from a computer data base.

Rate Structure: The rate structure of the existing Commission approved CLASS features for Southern Bell is appropriate and should not be affected by Caller ID. While most of these features share some CPID qualities through the ability to identify the calling number at some point in time, Caller ID provides a unique service of immediately identifying the calling party's number and this has exceptional value to customers concerned with enhancing their security and control over their telephone service.

OPC'S POSITION: There is considerable overlap in the functionality of the various CLASS services. The overlap is important because it can be used to help the public to manage the use of, or reduce the abuse of, the telephone network. The availability of universal, free, per-call blocking, along with the offering of Call Trace at a price of no more than \$1 per use, allows the public to achieve

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greatly enhanced functionalities but without the major cost Caller ID would impose without free per-call blocking.

ATTORNEY GENERAL, STATEWIDE PROSECUTOR, FDLE, AND FLA. POLICE CHIEFS' POSITION: As discussed in Issue 5, we believe that Call Trace provides the same benefits and protections against obscene and harassing phone calls as Caller ID. Other alternative CLASS offerings provide equally effective substitutes to Caller ID and are available at the present time. These offerings do not present the dangers or concerns we have outlined above. We join the position set forth by Public Counsel that the availability of Call Trace at a reasonable price allows the public to achieve greatly enhanced functionality without the major cost or impact of Caller ID.

FMA'S POSITION: FMA adopts the response to the issue as stated in the Joint Statement.

FCADV'S POSITION: As stated earlier, the benefit of obtaining information about the caller before answering the phone can also be obtained by the purchase of an answering machine. Call Trace is also an option if one is receiving harassing phone calls, as it registers the number of the caller with the telephone company and consequently law enforcement. The benefit, in FCADV's opinion, is that the called party cannot know the caller's phone number and choose to retaliate in any way. Call Trace should be made available on a per-use charge, however, to facilitate the immediate use by the recipient of such calls.

DGS' POSITION: Call Trace has the similar, if not greater, benefit for identifying harassing and obscene callers but does not have the detriment of Caller ID of putting a law enforcement situation into the hands of the untrained public. Call Trace should be priced on the use of the feature when needed, not acquired after the need and on a recurring basis. Call Return is not similar in function or benefit to Caller ID, but shares the same detriment to state agencies as Caller ID. Call Return will not display the number but could be used to identify the calling party upon activation and the resulting interaction with the answering individual. Call Return should be blocked on calls returned when the call was made initially with Caller ID blocking.

STAFF'S POSITION: No position pending further discovery.

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ISSUE 7: What effect will Caller ID have on nonpublished and unlisted subscribers?

SO. BELL'S POSITION: Southern Bell's tariff states: "a nonpublished listing is not listed in either the alphabetical section of the company's directory or directory assistance records and will not be furnished upon request of the calling party." Nonpublished listings were conceived as an optional service whereby a subscriber could have his number excluded from the telephone directory and directory assistance records. The introduction of Caller ID will not change this in any fashion.

It is also important to keep in mind that a caller's telephone number will be available to another person only when the caller has actually called a person who subscribes to Caller ID. Thus, a customer with a nonpublished number or any other Southern Bell subscriber who does not wish a certain party to have his phone number can choose either not to call that person, to call from a different number or to use some other method such as placing the call through an operator. Furthermore, Caller ID can be utilized to enhance the privacy of customers with nonpublished numbers by giving them the ability to screen incoming calls, thereby giving them more control over their service.

GTEFL'S POSITION: Nonpublished number services are services that permit a customer to control dissemination of his or her telephone number to the public at large. Any customer subscribing to nonpublished number service should expect that listing information will not to be disclosed to third parties requesting it via directory assistance or in published telephone directories. This service thus can protect the customer's privacy, to a degree, by restricting the availability of the nonpublished subscriber's telephone number to the general public, which might otherwise result in unsolicited and unwanted calls to that subscriber. Nevertheless, nonpublished numbers are still delivered in certain circumstances. For instance, the number will be delivered through ANI and will appear on the bill of a recipient of a collect call.

The availability of Caller ID in no way affects the ability of nonpublished number service subscribers to restrict the availability of their telephone number to the general public via directory assistance or in published telephone directories. While some parties believe that Caller ID compromises the privacy of nonpublished customers, the service actually can enhance privacy by

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increasing the ability of nonpublished subscribers to screen unsolicited and unwanted calls before answering.

Some parties believe that calling number identification for nonpublished customers should not be delivered to the called party, since their telephone number would be made known to the called party. The premise of their position appears to be that the telephone number for these customers should not be disclosed to any third party, even when those customers initiate calls to that third party. In essence, this position is based on the perception that the privacy rights of the calling party supersede the privacy rights of the called party. In reality, these customers are, at one time or another, both calling and called parties, and the privacy/anonymity issue should be addressed with that reality in mind.

The rights associated with nonpublished number service that preclude disclosure of telephone numbers to the general public should not be equated with any "right" to make anonymous telephone calls. In fact, tariffs have for many years advised customers that as a condition of using their telephone service, their identity must be disclosed to the called party. Required disclosure of actual identity might be considered more personal than mere disclosure of the telephone number assigned by the telephone company. Even so, no legitimate expectation of anonymity currently exists when a call is initiated by them.

A Commission decision that permits nonpublished or any other general class of customers to preclude the delivery of Caller ID to the called party is tantamount to concluding that the anonymity interests of the calling party are more important than the privacy right of the called party. Any telephone customer, including a nonpublished one, can be either a called party or a calling party on any given call. Permitting a particular calling party to control Caller ID delivery directly conflicts with that same subscriber's right to receive the calling number.

The broad delivery of calling number identification in conjunction with services such as Caller ID provides these customers with even greater control over incoming calls and would in many ways enhance their privacy.

UNITED'S POSITION: Caller ID should not be a problem for these customers. United is planning to offer free per-call blocking for

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those customers who request it. Customers who have nonpublished numbers recognize the privacy rights of the called party and the value of controlling calls that they receive. Caller ID will give these customers additional capabilities to control and manage their telephone and a broad acceptance of this feature is expected by these customers.

OPC'S POSITION: As of January 30, 1990, there were 844,260 nonpublished numbers in Southern Bell's territory (26.38% of 3,200,000 residence lines) and 230,707 unlisted numbers. Combined, there were 1,074,970 customers with either nonpublished or unlisted numbers (33.59% of 3,200,000 residence lines). Many of these customers have an expectation that their number will not be divulged.

ATTORNEY GENERAL, STATEWIDE PROSECUTOR, FDLE, AND FLA. POLICE CHIEFS' POSITION: We adopt the position advanced by the Public Counsel on behalf of the Citizens of Florida that the more than 1 million Southern Bell customers with either nonpublished or unlisted telephone numbers have a legitimate expectation that their numbers will remain private and that continued privacy should not be conditioned upon their payment of an additional fee for blocking service.

FMA'S POSITION: FMA adopts the response to the issue as stated in the Joint Statement.

FCADV'S POSITION: Many citizens go to great measures to assure some anonymity in their homes, including battered women and professionals. Caller ID would negate this careful planning since all numbers would be displayed for Caller ID subscribers. People should be able to retain their privacy, and not have to pay even more by placing operator-assisted or calling card calls. Caller ID, if implemented as proposed, is obviously going to be a way for Southern Bell to obtain more fees from all consumers, those wanting Caller ID and those not wanting their numbers known. FCADV does not believe any company has the right to impose such costly restrictions on the citizens of Florida.

DGS' POSITION: Caller ID would dilute the benefit of purchasing non-published and unlisted telephone numbers. These numbers would be displayed to everyone if blocking is not allowed, which would circumvent the subscribers' financial decision to restrict distribution of their telephone numbers.

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STAFF'S POSITION: No position pending further discovery.

ISSUE 8: What alternatives to Caller ID blocking are available and do they sufficiently protect customers' anonymity?

SO. BELL'S POSITION: Southern Bell believes that for the vast majority of calls customers have no need or desire for anonymity. For those few instances where anonymity is important there are several alternatives available.

First, the subscriber's telephone number can be kept confidential by placing calls through an operator, since calls so placed will be delivered with an "out of area" indication rather than the telephone number of the originating party. Second, in instances where anonymity is important, pay telephones may be used. While the calling number of a pay telephone set would be delivered to a Caller ID subscriber, the subscriber's ability to convert that telephone number into a location is extremely limited. Calls can also be processed through third parties such as answering services and office PBX's. In addition, recently approved out dial only lines can provide anonymity to individuals or agencies. Further, RingMaster service, which assigns distinctive rings to two or more telephone numbers on one line, can be utilized to identify callers returning calls to a number as a result of their use of Caller ID. Services such as foreign central office, foreign exchange and cellular also will provide calling number anonymity.

Southern Bell recognizes, however, that law enforcement and domestic violence intervention agencies have special concerns about delivery of all numbers and the Company has proposed optional calling number delivery blocking at no charge for these groups.

GTEFL'S POSITION: Alternatives to Caller Id blocking are available that can provide calling parties some control over delivery of their primary telephone number to the called party. However, GTE Florida questions whether calling parties have the "right to anonymity" implied by this question. Certainly, individuals should have some control over intrusions into their personal lives, but such control does not suggest that anyone has a right to make anonymous telephone calls. In fact, GTE Florida tariffs and federal and state regulatory rules require that calling parties identify themselves to called parties.

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GTE Florida's Protected Number Service ("PNS") can provide the calling party some control over delivery of their primary telephone number to the called party by forwarding a secondary number that, when redialed, provides a long-long ring that can be used to identify calls from individuals who received the number via Caller ID. Legitimate calls using the primary number will trigger a distinctive ring. PNS subscribers therefore can identify calls from parties to which they have voluntarily revealed their primary number and those parties that have received the secondary number via Caller ID. Based on the difference in rings, the PNS subscribers can choose to not answer calls to the secondary number, or to answer them in a special way.

Since operator-handled calls, credit card calls, and coin telephone calls do not deliver an identifying telephone number for Caller ID service, use of these services can permit calling parties to remain anonymous, at least with respect to their telephone numbers. In the future, use of special coded identifiers or calling party names may provide calling parties control over delivery of their telephone number. GTE Florida will support industry efforts to develop such alternative solutions.

UNITED'S POSITION: United can offer quite a few alternatives to the actual blocking of Caller ID which will effectively safeguard the anonymity of the caller if required in special instances. Many of these services are listed below.

Calling Card: United can issue special calling cards to specific customers who require anonymity when making certain calls. A calling card call is switched outside the SS7 network and will display an "out of area," or other similar notation, on a Caller ID unit and not the number from which the customer is calling.

SignalRingSM: SignalRing is a service which is being introduced in early 1991. It allows two or three numbers to be assigned to one telephone line. The primary number of SignalRing is displayed when the caller calls someone with Caller ID. If the called party tried to dial back the displayed number, they could be routed to a United recording or another specified number (such as an answering service) by using call forwarding on the primary number. The second and/or third number of the SignalRing line would not show on a Caller ID unit, thus providing anonymity to the caller. In addition, the second or third number could be nonpublished.

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Outward Only Service: This is a new service that United is reviewing. It will provide the customer with a telephone line which only allows outgoing calls. Incoming calls are routed to a recording at the central office. Because it is outgoing only, the telephone number of this line would be automatically nonpublished.

FX Service: This service would allow calls from "undercover" telephones at a single location to appear as if they originated from other parts of the community. It works like any standard FX (foreign exchange) line.

Pay Phone: Calls made from a pay phone could not be attributed to any one person, thereby providing the anonymity required by some persons.

This list of alternatives to blocking of Caller ID does not represent all of the capabilities which exist. United will continue to work with law enforcement groups to determine better, yet reasonable, ways to enhance their operations. It should be realized that any of these blocking methods will only work on the Caller ID (CLASS) feature and not the global Caller ID (CPID). Calls made by customers which are subsequently switched to and carried by interexchange carriers (IXCs) can, and will continue to be able to, carry the calling party's telephone number through the network to a customer of that IXC.

OPC'S POSITION: Southern Bell supports universal availability of Caller ID blocking as long as customers pay a fee to Southern Bell. These include the use of calling card calls (charged at 75 cents per call), operator assisted calls (charges at \$1 per call), cellular telephone calls, out-dial only lines, Ringmaster, and pay phones. The issue, then, is not whether per-call blocking should be made universally available, but instead whether customers will have to pay a fee to Southern Bell for per-call blocking. Universal per-call blocking should be made available free to all customers.

ATTORNEY GENERAL, STATEWIDE PROSECUTOR, FDLE, AND FLA. POLICE CHIEFS' POSITION: The answer to this issue will be based in part on whether it is determined that Caller ID violates Florida and federal law. If Caller ID violates Florida law, it is our view that no option would be viable. If it is determined that Caller ID does not violate Florida law, we would adopt the position taken by the Public Counsel and DGS on this point.

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FMA'S POSITION: Caller ID violates Florida and Federal law.

FCADV'S POSITION: FCADV has concerns about Per-Line Blocking and Per-Call Blocking, if offered by Southern Bell. We are still concerned that Per-Line Blocking will block the address from going to a 911 agency if called, as was the case of a rural battered women's shelter which had a fire and received considerable damage because the residents called 911 but did not know the unpublished address to give them. A written determination about this possibility should be obtained from Southern Bell by the Public Service Commission before any decisions can be made.

FCADV is concerned with the blocking option of Per-Call Blocking because of the probability that it may not be used when necessary, as in the case of battered women's children calling their fathers. It would only take one such mistake to negate the delicate planning that a battered woman has done to protect herself and her children from future violence and harm.

The given blocking alternatives to Caller ID are clearly not sufficient to protect customers' anonymity. To date Southern Bell has offered Per-Line Blocking to Law Enforcement and to Domestic Violence Intervention Agencies. We have received nothing in writing which makes provisions for the safety of battered women and their children, or the thousands of professionals who work to protect them. With no blocking available to citizens, Caller ID would put thousands of people at danger, besides losing their basic right to privacy.

FCADV is unable and unwilling to accept the responsibility of deciding who is a battered woman in need of blocking, as was verbally proposed to us. Last year domestic violence hotlines in Florida received over 60,000 calls. Shelter staff are unable to handle such an increased work load of reporting to Southern Bell all callers and the needed information for them to receive blocking. We are aware that there are also many thousands of victims who never call our hotlines, who would consequently be unable to obtain the needed blocking to retain their freedom and safety they have worked so hard to secure.

DGS' POSITION: Some of the alternatives mentioned are calling from a pay phone, operator assisted calling, cellular phones or subscribing to outward only services. These alternatives for the

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present time may protect the customer, but may be extremely inconvenient for the customer as well.

STAFF'S POSITION: RingMaster service, operator assisted calls, credit card calls, Outward Only service, pay telephones, answering services, and cellular telephones are all alternatives to Caller ID blocking. They all provide varying degrees of protection for the calling party; staff has no position as to whether the protection is sufficient pending further discovery.

ISSUE 9: Should the Commission allow or require the blocking of Caller ID? If so, to whom and under what rates, terms, and conditions?

SO. BELL'S POSITION: All telephone numbers should be delivered in order to maximize the societal benefits to both those who subscribe and those who do not subscribe to the service.

GTEFL'S POSITION: As a general principle, GTE Florida believes that the public interest is best served if some form of calling party identification is delivered to the called party on virtually all telephone calls. A widely-available offering enhances privacy rights in general and, at the same time, promotes the development and deployment of a widely-available advanced telecommunications/information network infrastructure. Any extensive offering of services that block Caller ID delivery will significantly reduce the level of privacy available to residence subscribers, the utility of Caller ID-based services to business subscribers, and the economic viability of SS7-based services in general.

Some have argued that customers should have a choice about forwarding their number and that blocking is the only viable solution. They believe that callers will no longer be able to control when and to whom they give their telephone numbers, since Caller ID will make the decision for them. They argue that if called parties do not want to receive calls for which the number has been blocked, they have the right not to answer. An analogous argument could be made on behalf of the called party. For example, called parties should have a choice about whether they can see the number of the calling party before they answer. Callers can still control when and to whom they give their telephone numbers, by simply not placing calls to those parties to whom they do not

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wish their numbers to be delivered. They have the right not to place the call.

The dilemma is that calling parties are also, at one time or another, called parties whose interests may not be best served if the number is blocked. This Commission must, therefore, balance these potentially divergent concerns and develop policy that is in the overall best interest of society.

While GTE Florida believes that the public interest is best served if Caller ID blocking is not made available on a general basis, it is sensitive to the anonymity concerns that have been expressed by various customer groups. GTE Florida will continue to work with these groups to develop solutions to their concerns with Caller ID, and it believes that most of the concerns can be alleviated through existing or future network capabilities, without making Caller ID blocking available on a general basis.

UNITED'S POSITION: United realizes that certain customers may have legitimate needs for blocking the display of their telephone number to the called party's location.

The Commission should allow the individual customers to determine whether or not they require the capability to block the forwarding of their Caller ID to the called party on a per-call basis. This per-call blocking should be provided free, with no recurring charges. The customer should be required to request this service through the normal service order process, just as they would with any other ExpressTouch feature. There would be a normal one-time service order charge with this request except during a new service request or during the initial 60 days following the approved tariff when service order charges for ExpressTouch are waived for promotional purposes. There will be no disconnect fee associated with the per-call blocking service.

Because of the availability of the per-call blocking service, per-line blocking and the associated need to certify those customers who use it will not be required.

OPC'S POSITION: The Commission should allow free per-call blocking to all customers. Per-call blocking should not be available only for a fee.

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ATTORNEY GENERAL, STATEWIDE PROSECUTOR, FDLE, AND FLA. POLICE CHIEFS' POSITION: Our position on this point is outlined in Issue 8 above.

FMA'S POSITION: Caller ID violates Florida and Federal law.

FCADV'S POSITION: If the Public Service Commission allows the offering of Caller ID, universal blocking must also be offered free of charge, to all customers. This is the only option that would secure the safety of battered women and their children, law enforcement, and other professionals who work to protect victims of crime in our state. Once the Public Service Commission has determined the safety of Per-Line Blocking, this and/or Per-Call Blocking must be an option for all customers, without requiring someone to pay to retain their privacy and safety.

DGS' POSITION: In the event that Issues 2, 3, and 4 are answered in the negative, it is the position of DGS that the Commission should require universal per-call and per-line calling number blocking at no cost uniformly throughout the State.

STAFF'S POSITION: No position pending further discovery.

ISSUE 10: What special arrangements, if any, should be made regarding Caller ID for law enforcement operations and personnel?

SO. BELL'S POSITION: Southern Bell has worked closely with law enforcement in an attempt to develop solutions that will accommodate their needs. Therefore, Southern Bell has designed additional options which go beyond just sending the privacy indicator. Many new and creative alternatives that adequately meet the needs of law enforcement have been developed as a result of the joint collaboration between law enforcement and the company over the past months. These include per line blocking as well as other options that will not only protect law enforcement's anonymity but will also assist them with their investigative efforts. In addition, because law enforcement indicated that cost was one of its major concerns, Southern Bell has offered these options at no cost. Southern Bell, however, is not willing to meet law enforcement's request that they be provided with the ability to deliver anyone's number since such could jeopardize the general public.

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GTEFL'S POSITION: As stated previously, use of Caller ID by law enforcement operations can greatly enhance some law enforcement capabilities. Caller ID can be used not only to identify nuisance or obscene callers, but also to track bomb threats and false fire alarms.

Emergency service personnel currently use a type of Caller ID as part of E911-type services, but Caller ID could also improve the effectiveness of law enforcement and other public safety organizations in responding to emergency calls that are not placed via E911.

GTE Florida understands that Caller ID has been opposed by some law enforcement agencies engaged in undercover activities. GTE Florida is sensitive to these concerns and intends to continue to work with these agencies to develop workable solutions to the expressed concerns. GTE Florida believes that its proposed Protected Number Service will provide adequate protection in most situations, while operator-handled calls, credit card calls, and coin telephone calls may be viable solutions in other cases. Caller-activated blocking of Caller ID delivery could also be made available to enhance inaccessibility as required. However, Caller ID blocking does not control delivery of ANI and no technical means exists to control ANI delivery. PNS avoids problems raised by ANI delivery in that it will not deliver the subscriber's "real" number.

UNITED'S POSITION: United is aware that Caller ID will have some impact on law enforcement agencies. The availability of the per-call blocking service should assist in minimizing this impact. To the extent that other methods of blocking are necessary, United will work with these groups to ensure that their concerns are addressed in a reasonable manner. Law enforcement needs are unique and some methods incorporated to maintain their anonymity would not likely be offered to any other person or group. The ultimate goal of United and the law enforcement agencies will be to provide the necessary alternatives to ensure that the safety of their personnel is not jeopardized.

OPC'S POSITION: The Commission should make free, per-call blocking available to the public at large, as requested by law enforcement personnel.

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ATTORNEY GENERAL, STATEWIDE PROSECUTOR, FDLE, AND FLA. POLICE CHIEFS' POSITION: If it is determined that Caller ID is not violative of Florida Statutes or Florida Constitution, law enforcement should be extended Call Block capability at no charge. As further technology, such as the options which have been proposed by the phone companies, comes on line that assures anonymity of undercover operatives, these systems should be made available to law enforcement at no cost. It should be stressed however that such options should be considered a supplement to universally-available Call Blocking and not considered a substitute for such blocking.

FMA'S POSITION: Caller ID violates Florida and Federal law.

FCADV'S POSITION: See the FCADV position on Issue 9.

DGS' POSITION: It is the position of DGS that with universal statewide per-call and per-line calling number blocking being available at no cost, no special arrangements need be made for state law enforcement operations and personnel.

STAFF'S POSITION: No position pending further discovery.

ISSUE 11: What special arrangements, if any, should be made regarding Caller ID for any other group or groups?

SO. BELL'S POSITION: Southern Bell will provide optional per line blocking at no charge for domestic violence intervention agencies. Southern Bell has also offered a special calling card for Department of Health and Rehabilitative Services sponsored agencies to enable "at risk" individuals to place operator handled calls and thereby protect their anonymity. Southern Bell proposes that any agency, such as a domestic violence intervention agency, which establishes the fact that the divulgence of identities over the telephone could cause serious personal or physical harm to its employees and certified clients should be provided blocking of Caller ID service. Southern Bell believes that personal safety, not just inconvenience, should be the determining factor.

GTEFL'S POSITION: Protected Number Service could provide number delivery control for police undercover agents, spousal abuse centers, or other special groups with justification to control delivery of their "real" telephone number. PNS would provide this

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control for Caller ID services based on SS7 technology, as well as for ANI-based services.

The concerns of some social service organizations (such as "hot lines") that the confidentiality of callers will be compromised can be addressed by simply not subscribing to the Caller ID service and publicizing that fact.

For others with a special interest in controlling delivery of their number, operator-handled calls, credit card calls, and coin telephone calls may be viable solutions. Calls placed via these methods would provide number delivery control for Caller ID services based on SS7 technology, as well as for ANI-based services.

For the limited number of subscribers with compelling security concerns, such as authorized violence intervention and law enforcement personnel, limited caller-activated blocking of Caller ID delivery could be made available to enhance inaccessibility as required. However, the Commission should understand that, other than the use of PNS, no technical means exists to control problems associated with ANI delivery.

UNITED'S POSITION: The special arrangements for groups such as hot lines or abuse shelters should correspond closely with those alternatives which have been developed for the law enforcement agencies. The alternatives which have been defined in Issue 8, along with the per-call blocking service option, should provide the protection required by these groups.

OPC'S POSITION: Universal per-call blocking should be made available to the public at large, as requested both by spouse abuse centers and the State of Florida. In addition, Call Trace should be made universally available and charged solely on a usage basis at a rate of no more than \$1 per-call.

ATTORNEY GENERAL, STATEWIDE PROSECUTOR, FDLE, AND FLA. POLICE CHIEFS' POSITION: Our position on this point is outlined in Issue 8 above.

FMA'S POSITION: Caller ID violates Florida and Federal law.

FCADV'S POSITION: See the FCADV position on Issue 9.

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DGS' POSITION: It is the position of DGS that with universal per-call and per-line calling number blocking also being available at no cost provided uniformly throughout the State, no special arrangements need be made for any group.

STAFF'S POSITION: No position pending further discovery.

ISSUE 12: Is Caller ID in the public interest?

SO. BELL'S POSITION: Yes. In providing this service, Southern Bell is responding to the needs of its customers who have indicated that they want to have more control over whom they talk to on the telephone. Just as they prefer to know who is knocking at their door before they open it, many of Southern Bell's customers want to know who is calling on their telephone before they answer it. Caller ID service gives them that information. Caller ID thus gives the party who is called a level of control over his telephone service that he does not have today.

GTEFL'S POSITION: Yes, Caller ID is in the public interest. As detailed in the previous responses, the service provides the consumer with a high level of ability to manage and control incoming calls, thereby supporting the Florida state constitutional right to be let alone. Legitimate confidentiality concerns of law enforcement operations and personnel can be satisfied through the use of PNS, out-dial-only lines, or other means.

The public policy question at issue with Caller ID service is not limited to that specific service, but has much broader implications for emerging technologies and economic development. The accelerating evolution of telecommunications and information technologies is thrusting the State of Florida, the United States, and indeed the world, into the Information Age. Continued evolution and convergence of these technologies in the future should yield a wide array of new and innovative services to benefit the consuming public and strengthen the position of the United States in the rapidly developing global economy.

Emerging technologies such as SS7 will have great social and economic benefits, but they also may affect users of telecommunications/information services in previously unanticipated ways, particularly with respect to privacy or anonymity concerns of customers. The Commission should be sensitive to the Caller ID

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privacy concerns that have been voiced by some, but these concerns should not be overly emphasized at the expense of the privacy rights of other customers or the broader social and economic benefits that are made available by technological developments. Caution should be exercised when considering possible regulatory rules that may strifle technological developments that are critical to bringing Florida consumers fully into the Information Age. Regulation should be applied only when necessary to address specific, actual privacy abuses and not to discourage the innovation of new technologies that are in the public interest. Such regulation should control the conduct or abuse that gives rise to the concern, and should not attempt to "legislate" technology.

The public interest is best served if Caller ID can be made available to the called party for virtually all telephone calls. Such delivery will enhance the privacy of the called party, contribute to increased public safety, and permit new innovative services to be brought to the marketplace.

UNITED'S POSITION: Yes, Caller ID is in the public interest. Whether Caller ID is considered in the broad scope of passing information on the calling party through the network or whether it is considered only as a feature within the CLASS family, Caller ID is a benefit to the public through increased network capabilities and increased security.

OPC'S POSITION: Yes, but only if offered with universal, free per-call blocking available to all customers.

ATTORNEY GENERAL, STATEWIDE PROSECUTOR, FDLE, AND FLA. POLICE CHIEFS' POSITION: It is our position that Caller ID is not in the public interest but is only in the interest of those telecommunication providers who seek to expand their services into the area of information brokering.

FMA'S POSITION: Caller ID violates Florida and Federal law.

FCADV'S POSITION: FCADV does not feel that Caller ID is in the public interest. Although it will be convenient to have for some customers in some situations, it is ultimately going to benefit phone companies and other businesses. This is a situation in which the detriments of the public having information outweigh the public's right to know that information, for the lives of thousands of people are at stake. Four women are killed every day in this

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country by their husbands or partners, and we do not need to introduce another device to increase that statistic.

DGS' POSITION: It is the position of DGS that with universal per-call and per-line calling number blocking also being available at no cost provided uniformly throughout the State, and in the event that Issues 2, 3, and 4 are answered in the negative, Caller ID may be in the public interest.

STAFF'S POSITION: Yes, Caller ID is in the public interest, with certain restrictions. Staff has no position on the nature of the restrictions or whom those restrictions should benefit pending further discovery.

ISSUE 13: What further action should be taken on Southern Bell's tariff filings introducing Caller ID (T-89-507) and changing the conditions under which nonpublished number information will be divulged (T-90-023)? What should be the effective date of such action?

SO. BELL'S POSITION: All appropriate steps needed to address Southern Bell's Caller ID tariff offering have been taken.

Southern Bell filed tariff revisions on September 29, 1989, by which it added Caller ID to the Touchstar^(R) features and proposed clarifications regarding the divulgence of nonpublished telephone numbers. The tariff implementing Caller ID was approved effective February 1, 1990, and Southern Bell was directed to amend the filing with a prohibition on the resale of any numbers acquired through Caller ID.

The issue concerning the appropriateness of blocking certain agencies' numbers and any charge for such blocking was deferred for further consideration before the February 1, 1990, effective date. In recognition of the needs of law enforcement and domestic violence intervention agencies, Southern Bell is prepared to file a tariff amendment setting the following criteria for blocking:

1. The entity should establish that its business is law enforcement or one in which the divulgence of identities over the telephone could cause serious personal or physical harm to its employees and certified clients, such as a domestic violence intervention agency;

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2. The entity should establish that the forwarding of numbers through Caller ID would seriously impair or prevent it from performing its business; and,
3. The entity should establish that no reasonable offering by the telephone company other than blocking will protect its desired anonymity.

Southern Bell also sent bill inserts to all customers where Caller ID was to become available to notify them of these criteria.

Based on the foregoing, Southern Bell believes that it has adequately addressed the needs of its customers and the general public that the Caller ID tariff should be approved for immediate implementation.

GTEFL'S POSITION: Although this proceeding initially focused on specific Southern Bell tariff filings, it was later transformed into a generic examination of Caller ID services. GTEFL will therefore answer this question in the broad sense appropriate to this change in the character of the proceeding.

As explained in the above response to Issue 12, the rapid development and implementation of innovative telecommunications technologies is critically important on both social and economic levels. Advanced services, such as Caller ID, should be made widely available to consumers with the minimum possible delay. GTEFL thus believes that the Commission should permit initiation of Caller ID services on a permanent basis as of March 4, 1991, the date set for issuance of the order in this proceeding. While the service should not be subject to universal blocking requirements, PNS would be offered to law enforcement and other agencies with a legitimate need for anonymity.

UNITED'S POSITION: United takes no position on the tariff of Southern Bell, but will seek approval of its own tariff implementing Caller ID with per-call blocking on request with no recurring charge. Under the tariff United intends to file, customers will be required to request this service through the normal service order process. There would be a normal one-time service order charge with this request except during a new service request or during the initial 60 days following the approved tariff when service order charges for ExpressTouch are waived for

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promotional purposes. No disconnect fee will be associated with the per-call blocking.

United will continue to work with law enforcement and social agencies to develop appropriate methods of call blocking to accommodate their interests to the extent that per-call blocking does not satisfy these interests.

No special conditions or privileges should be required for customers who have nonpublished numbers due to the proposed free per-call blocking.

OPC'S POSITION: The Commission should offer free per-call blocking to all customers and make Call Trace available on a usage basis at a rate of no more than \$1 per call. In addition, the Commission should allow sufficient time before making Caller ID available in order to allow law enforcement personnel and other agencies to take reasonable steps to prepare for the introduction of Caller ID.

ATTORNEY GENERAL, STATEWIDE PROSECUTOR, FDLE, AND FLA. POLICE CHIEFS' POSITION: The Commission should reject any and all tariff filings seeking to introduce Caller ID or changing the conditions under which nonpublished number information will be divulged. Such action should be taken as soon as possible.

FMA'S POSITION: FMA adopts the response to the issue as stated in the Joint Statement.

FCADV'S POSITION: It is the position of FCADV that the Public Service Commission should deny Southern Bell's request to introduce Caller ID because of the safety considerations involved. The safety factors will be lessened to acceptable levels with the following amendments to the filings:

- 1) Universal Blocking be available free of charge to all telephone customers.
- 2) Call Trace be made available to all customers on a per-use charge instead of the presubscribed monthly charge.
- 3) Southern Bell conduct an accurate education campaign about all services available and the possible effects of each option.

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DGS' POSITION: In the event Issues 2, 3, and 4 are answered in the negative, it is the position of DGS that the Public Counsel's Motion to Consolidate Consideration of Caller ID Tariff Filings and to Conduct Generic Hearing should be granted. Thereafter it should be determined that Caller ID should be implemented only with universal per-call and per-line calling number blocking also being available at no cost provided uniformly throughout the State.

STAFF'S POSITION: No position pending further discovery.

VI. EXHIBIT LIST

<u>WITNESS</u>	<u>PROFFERING PARTY</u>	<u>EXH. NO</u>	<u>TITLE</u>
Elsewi	GTEFL	SWE-1	CLASS Pre-Test Study Questionnaire
		SWE-2	Follow-Up Questionnaire
		SWE-3	Focus Group Discussion Guide
		SWE-4	Focus Group Privacy Discussion
Cooper	OPC	MNC-1	Problems with Caller ID As Evidenced In the Public Hearings State of Maryland
	Staff	Staff-8	GTEFL's First Set of Interrog. to OPC - Nos. 6-8, 10, 11, 14, & 17
Tudor	FDLE	RPT-1	Newspaper Article
	Staff	Staff-4	October 25, 1990, Deposition - Pages 7-142

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<u>WITNESS</u>	<u>PROFFERING PARTY</u>	<u>EXH. NO</u>	<u>TITLE</u>
Mayne	DGS	GWM-1	Joint Task Force Position Statement
Kurtz	Staff	Staff-1	October 24, 1990, Deposition - Pages 5-27 and Exh. Nos. 1 & 3
Sims	Staff	Staff-2	August 15, 1990, Deposition - Pages 15-44 and Exh. Nos. 8 & 9
		Staff-3	August 14, 1990, Deposition of James Whitehead - Pages 35-55, 57, 65-71, 78-93, 116-131 and Exh. Nos. 2, 3, & 4
		Staff-7	Staff's First Set of Interrog. to So. Bell Nos. 1-21
Radin	Staff	Staff-5	October 24, 1990, Deposition - Pages 7-41
Jones	Staff	Staff-6	October 26, 1990, Deposition - Pages 5-31

VII. STIPULATIONS:

There are no issues that have been stipulated at this time.

VIII. PENDING MOTIONS:

1. Motion to Compel and Request for In Camera Inspection filed August 7, 1990, by OPC remains pending in part (see Section IX).

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2. Petition to Require the Offering of Call Trace Service to All Customers at Reasonable, Usage Based Rates filed September 21, 1990, by OPC and requests for oral argument on the Petition made verbally on November 15, 1990, by Southern Bell, GTEFL, OPC, Attorney General, Statewide Prosecutor, FDLE, and Fla. Police Chiefs.

IX. RULINGS:

1. FCADV's October 2, 1990, Motion to Accept Late Filed Testimony of Joyce M. Brown was granted.
2. FMA's oral request to be excused from attendance at the hearing was granted. FMA remains a party for all purposes.
3. The Motion to Compel and Request for In Camera Inspection filed on August 7, 1990, by OPC was granted in part and ruling was deferred in part. OPC and So. Bell informed the Prehearing Officer of their intent to informally resolve the issues surrounding the alleged privileged documents, so ruling on this portion of the Motion was deferred. The Prehearing Officer ordered So. Bell to furnish to OPC and file with the Commission, by November 21, 1990, a list of the documents responsive to OPC's discovery request which So. Bell has either withheld or redacted portions of, subject to its stated objections. Along with this listing, So. Bell is to identify, with specificity, any and all claims of confidentiality and/or irrelevancy. The Prehearing Officer deferred ruling on the request for in camera inspection.
4. The Motion to Consolidate Consideration of Caller ID Tariff and to Conduct Generic Proceedings filed September 24, 1990, by OPC was denied. OPC shall be permitted to proffer the testimony of Dean Kurtz as a rebuttal witness. Mr. Kurtz shall be allowed to be represented by his counsel while testifying at OPC's instance.

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X. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION:

In the event it becomes necessary to handle confidential information, the following procedure will be followed:

1. The Party utilizing the confidential material during cross examination shall provide copies to the Commissioners and the Court Reporter in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material shall be provided a copy in the same fashion as provided to the Commissioners subject to execution of any appropriate protective agreement with the owner of the material.
2. Counsel and witnesses should state when a question or answer contains confidential information.
3. Counsel and witnesses should make a reasonable attempt to avoid verbalizing confidential information and, if possible, should make only indirect reference to the confidential information.
4. Confidential information should be presented by written exhibit when reasonably convenient to do so.
5. At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the owner of the information. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Commission Clerk's confidential files.

If it is necessary to discuss confidential information during the hearing the following procedure shall be utilized.

After a ruling has been made assigning confidential status to material to be used or admitted into evidence, it is suggested that the presiding Commissioner read into the record a statement such as the following:

The testimony and evidence we are about to receive is proprietary confidential business information and shall be kept

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confidential pursuant to Section 364.093, Florida Statutes. The testimony and evidence shall be received by the Commissioners in executive session with only the following persons present:

- a) The Commissioners
- b) The Counsel for the Commissioners
- c) The Public Service Commission staff and staff counsel
- d) Representatives from the office of public counsel and the court reporter
- e) Counsel for the parties
- f) The necessary witnesses for the parties
- g) Counsel for all intervenors and all necessary witnesses for the intervenors.

All other persons must leave the hearing room at this time. I will be cutting off the telephone ties to the testimony presented in this room. The doors to this chamber are to be locked to the outside. No one is to enter or leave this room without the consent of the chairman.

The transcript of this portion of the hearing and the discussion related thereto shall be prepared and filed under seal, to be opened only by order of this Commission. The transcript is and shall be non-public record exempt from Section 119.07(1), Florida Statutes. Only the attorneys for the participating parties, Public Counsel, the Commission staff and the Commissioners shall receive a copy of the sealed transcript.

(AFTER THE ROOM HAS BEEN CLOSED)

Everyone remaining in this room is instructed that the testimony and evidence that is about to be received is proprietary confidential business information, which shall be kept confidential. No one is to reveal the contents or substance of this testimony or evidence to anyone not present in this room at this time. The court reporter shall now record the names and affiliations of all persons present in the hearing room at this time.

It is therefore,

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ORDERED by Commissioner Betty Easley, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Betty Easley, as Prehearing Officer, this 21st day of NOVEMBER, 1990.



BETTY EASLEY, Commissioner
and Prehearing Officer

(S E A L)

ABG