

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause) DOCKET NO. 941221-TI
proceedings against AT&T) ORDER NO. PSC-94-1615-POF-TI
COMMUNICATIONS, INC./AT&T) ISSUED: December 27, 1994
COLLEGE AND UNIVERSITY SYSTEMS)
for violation of Rule 25-24.470,)
F.A.C., Certificate of Public)
Convenience and Necessity)
Required, and Rule 25-24.4701,)
F.A.C., Provision of Regulated)
Telecommunications Service to)
Uncertificated Resellers)
Prohibited.)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER TO SHOW CAUSE

I. Case Background

Over the past year the Commission has received numerous slamming complaints against companies for which AT&T Communications, Inc./AT&T College and University Systems (AT&T/ACUS) provides billing and collection services through its Bill Manager Service (BMS). Through these complaints, the Commission has become aware of several uncertificated companies where billing and collection services have been provided by AT&T.

By letter dated January 19, 1994, AT&T was notified about the Commission's concern that AT&T is billing for uncertificated companies. The letter requested AT&T:

- 1) to identify all entities that it is presently billing for that are reselling telecommunications service and are not certificated by the Commission, and
- 2) to provide what corrective measures it will implement to ensure that billing does not occur for uncertificated entities in the future.

DOCUMENT NUMBER-DATE

12959 DEC 27 84

FPSC-RECORDS/REPORTING

On February 3, 1994, AT&T responded by stating that BMS provides non-regulated billing services for resellers and aggregators. AT&T also argued that BMS is not a "telecommunications company" as defined by section 364.02(7), Florida Statutes, and, therefore, does not fall within the regulatory jurisdiction of the Florida Public Service Commission.

On February 8, 1994, Commission staff met with AT&T representatives and requested AT&T's assistance with the slamming problems and that it not bill for uncertificated entities any longer. There was continued correspondence between staff and AT&T from this meeting forward. Finally, on June 22, 1994, a certified letter was sent to AT&T/AT&T College and University Systems (ACUS) along with an application for a Certificate of Public Convenience and Necessity. The Company was notified that since it is not certificated to conduct intrastate telecommunication service in Florida, that it cannot bill or collect (via Bill Manager Services) for any intrastate telecommunication services performed in Florida.

AT&T asserted by letter dated July 28, 1994, that it does not believe that ACUS is a "telecommunications company" under Section 364.02(7) of the Florida Statutes. Furthermore, that under AT&T Bill Manager Service, ACUS does not bill in its own name, but is strictly a billing agent which prepares invoices on behalf of resellers of the services of AT&T Communications of the Southern States, Inc.

II. Discussion and Conclusion

Historically clearinghouse billing entities have resisted certification, arguing that they are billing vehicles akin to Mastercard or Visa and, therefore, not subject to the Commission's jurisdiction. Section 364.02, Florida Statutes, states that the word service is to be construed in its broadest and most inclusive sense. We find that billing and collection entities, that bill for telecommunications services on telephone bills, provide an integral part of the overall telecommunications services consumers receive and are, therefore, under the jurisdiction of the Commission.

One area in which we have addressed billing and collection involves operator services. Section 364.02(4), Florida statutes states: "Operator service" includes, but is not limited to, billing or completion of third-party, person-to-person, collect, or calling card or credit card calls through the use of a live operator or automated equipment. (emphasis supplied) Also, Rule 25-24.600(1), Florida Administrative Code, Rules Governing Operator Services Providers, states that its provisions apply to companies meeting the definition set out in section 364.02(4), Florida Statutes and

includes companies that bill and collect for other entities on telecommunications company bills.

Prior to the enactment of 364.04(2), Order Number 20489 provided the definition of an Alternative Operator Service provider (AOS):

Another form of AOS is a billing and collection agency that offers its services on a stand alone basis through the use of another carrier's transmission facilities and then does billing in its own name. In that situation we consider a billing and collection agency to be a telephone company subject to our jurisdiction.

Subsequent to Order No. 20489, Order No. 22243 clarified the scope of the AOS definition and gave five (5) examples to illustrate how the definition applies. Number five applies to the present situation:

Companies who do billing and collection on behalf of another AOS or IXC shall be considered an AOS or IXC when the billing and collecting company's name appears on the customer bill.

AT&T argues that the AOS provisions outlined above do not apply to Bill Manager Service since:

1. "...it does not provide bill services in its own name, but rather such services are provided on behalf of and in the name of an IXC."
2. it is not providing operator services through the use of a live operator or automated equipment.

As to AT&T's first argument, even if AT&T Bill Manager's clients are identified on every bill, consumers will still think that AT&T is responsible since its name will always appear on the bill. As to AT&T's second argument, in Order No. 20489 a billing and collection agency was considered to be another form of AOS.

Requiring AT&T to be certificated to provide Bill Manager Service is consistent with the provisions outlined above and is no more than has been required of other clearinghouses such as Operator Assistance Network, Zero Plus Dial, Inc. and Integretel, Inc. In fact, in Order Number PSC-94-0865-FOF-TI, we denied Integretel, Inc.'s request for cancellation of its AOS certificate

since its name continued to appear on telephone bills. Bill Manager Service, like Integretel, provides billing clearinghouse service to its clients. The Company's services include receiving call records from its clients, assembling call records into appropriate bill formats and rendering bills to subscribers in its name or jointly with the reseller.

Clearinghouses establish billing contracts with local exchange companies (LECs) to bill operator assisted message toll services and pay-per-call services to local telephone subscribers via the LEC's billing system. Clearinghouses then generally resell their billing agreements to pay telephone providers, operator service providers and various segments of the pay-per-call industry, including service bureaus and information service providers.

Bill Manager Service differs from other clearinghouses in that it bills for downstream entities that resell AT&T Communications of the Southern States, Inc.'s long distance services. Many of the slamming complaints the Commission has received are against these resellers. Since AT&T/ACUS is providing billing and collection for these resellers, it is in a unique position to assist the Commission in addressing the problem of unauthorized PIC changes (slamming). Furthermore, without certification, there is no mechanism to monitor AT&T Bill Manager Service's activities or to prevent it from billing for these uncertificated entities.

Since AT&T Bill Manager Service has been providing regulated billing services to uncertificated resellers, Rule 25-24.4701 (3), Florida Administrative Code applies:

The Commission, upon making a determination that a customer of an interexchange company is unlawfully reselling or rebilling intrastate interexchange service may issue an order that directs the customer to cease and desist reselling or rebilling such service and simultaneously directs the interexchange company to discontinue providing such service to such customer and/or to cease providing service to such customer at additional locations within Florida, provided that such discontinuance or limitation of service is technically feasible within the context of existing facilities and technology. (emphasis supplied)

Although it may be argued that AT&T Bill Manager Service is not technically a rebiller, the above rule applies since Bill Manager Service provides its service in lieu of the downstream rebiller. Therefore, it is appropriate to hold billing and collection agencies to the same standard as rebillers and, thus,

not permit them to provide billing and collection services to uncertificated entities.

AT&T/ACUS knows or should know that it is providing Bill Manager Service to uncertificated entities. Attachment A is an example of a AT&T Bill Manager bill on behalf of an uncertificated reseller. This documentation confirms that AT&T Bill Manager Service is in violation of Commission rules and is aiding uncertificated entities who are also in violation of Commission rules.

The Commission continues to receive complaints from customers who have been slammed by companies that AT&T Communications, Inc./ACUS bills for through its Bill Manager Service. Therefore, since AT&T Communications, Inc./ACUS refuses to apply for a Certificate of Public Convenience and Necessity to offer Bill Manager Service and continues to offer billing and collection services to uncertificated entities, we find that the Company should be ordered to show cause why it should not be fined for violations of Rules 25-24.470 and 25-24.4701, Florida Administrative Code.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that AT&T Communications, Inc./AT&T College and University Systems is hereby required to show cause why it should not be fined pursuant to Section 364.285, Florida Statutes, for violations of Rules 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required, and Rule 25-24.4701, Florida Administrative Code, Provision of Regulated Telecommunications Service to Uncertificated Resellers Prohibited. It is further

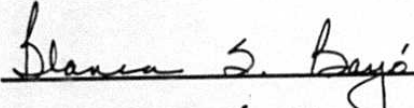
ORDERED that AT&T Communications, Inc./AT&T College and University Systems' response must contain specific allegations of fact and law. It is further

ORDERED that, should AT&T Communications, Inc./AT&T College and University Systems fail to file an appropriate written response by the date set forth in the Notice of Further Proceedings or Judicial Review, such failure shall constitute an admission of the alleged violations, and a waiver of any right to a hearing. It is further

ORDERED that this docket shall remain open pending resolution of the show cause process.

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By ORDER of the Florida Public Service Commission, this 27th
day of December, 1994.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

MMB

Chairman Deason and Commissioner Clark dissent from the
Commission's decision.

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 101

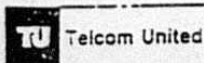
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East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on January 17, 1995.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.

Shawn Berry



AT&T Bill ManagerSM Service

CUSTOM LONG DISTANCE

CUSTOMER: JENNIFER JOHNSTON
ATTN JENNIFER JOHNSTON
8825 BAY POINT DR.
TAMPA FL 33615

ACCOUNT NUMBER: 862-6759-416
INVOICE DATE: 10/12/94
DUE DATE: PAYABLE UPON RECEIPT
FOR BILLING INQUIRIES: 1 (800) 562-4230
FOR SERVICE INQUIRIES: 1 (800) 542-0397

900-659-6555

BALANCE BROUGHT FORWARD

PRICR BALANCE	\$.00
PAYMENTS	\$.00
ADJUSTMENTS	\$.00
BALANCE FORWARD	\$.00

NEW CHARGES

LONG DISTANCE CHARGES	\$200.48
OTHER CHARGES	\$5.00
FEDERAL TAX/SURCHARGE	\$6.17
ST/LOCAL TAX/SURCHARGE	\$19.52
TOTAL NEW CHARGES	\$231.17
NEW BALANCE	\$231.17

MESSAGES

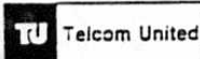
WELCOME TO TELCOM UNITED'S CUSTOM LONG DISTANCE
EXCLUSIVELY UTILIZING AT&T'S GLOBAL INTELLIGENT NETWORK.

Ask us about the Telcom Advantage - savings on 800 numbers, calling cards,
local billings, teleconferencing calls, operator-assisted calls and Telcom equipment.

This bill prepared by AT&T. Rates and fees established by Telcom United.

PLEASE DETACH AND RETURN THIS PORTION WITH YOUR REMITTANCE.

AT&T Bill ManagerSM Service



CUSTOM LONG DISTANCE

exclusively utilizing
THE WORLD-WIDE AT&T NETWORK

22 VILLAGE SQUARE LOGAN SQUARE, SUITE 22-23
NEW HOPE PA 18938

INVOICE DATE: 10/12/94

AMOUNT DUE: \$231.17

PLEASE WRITE YOUR ACCOUNT NUMBER (862-6759-416) ON YOUR CHECK

86267594363029400023117

JENNIFER JOHNSTON
ATTN JENNIFER JOHNSTON
8825 BAY POINT DR.
TAMPA FL 33615

MAKE CHECKS PAYABLE TO:
DEPT. 01564
NETWORK SERVICE/AT&T
P.O. BOX 55000
DETROIT, MI 48255-0015