

**ORIGINAL
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed tariff filings by) Docket No. 891194-TI
SOUTHERN BELL TELEPHONE AND TELEGRAPH) Filed: June 5, 1990
COMPANY clarifying when a nonpublished)
number can be disclosed and introducing)
caller ID to TouchStar Service)

REQUEST FOR HEARING

COMES NOW FLORIDA MEDICAL ASSOCIATION, INC., (FMA), by its undersigned attorney, and pursuant to Chapter 120, Florida Statutes, respectfully requests the Public Service Commission (The Commission) to hold hearings throughout the State of Florida and a formal evidentiary proceeding pursuant to §120.57(1), Florida Statutes, concerning Southern Bell's tariff filing introducing Caller ID service, and as grounds states:

1. FMA is a professional organization comprised of approximately 16,000 Florida-licensed physicians and osteopaths (FMA members).

2. FMA members rely on telecommunications systems extensively in both their professional and private lives and as such stand to be greatly affected by and have a substantial interest in the proposed tariff filings.

3. Many FMA members have nonpublished home telephone numbers, which are frequently used in connection with the rendition of health care. The high degree of privacy afforded by

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PSC-RECORDS/REPORTING

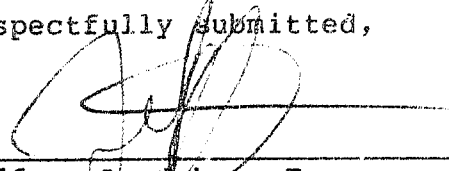
a nonpublished number, for which Southern Bell receives a fee, is greatly compromised by the proposed Caller ID service. Southern Bell has failed thus far to provide a method for protecting subscribers to its nonpublished number service, and FMA believes strongly that the privacy right of every caller should be maintained to the utmost degree. Given the Caller ID service will greatly infringe on a caller's right to privacy, FMA strongly believes subscribers of a nonpublished number should be permitted to block Caller ID service's application at no additional cost.

4. Certain FMA members, such as psychiatrists and those working in child or spouse abuse centers, may be exposed to a significant risk of physical harm in the event their home telephone numbers are inadvertently disclosed to persons utilizing the Caller ID service. Nevertheless, it will more often probably be the physician's legitimate right of privacy that will be substantially impaired. Hence, the Commission's Order in this matter of March 19, 1990, listing three factors to be considered in determining blocking eligibility is insufficient since it does not specify that the caller's right of privacy is superior to any right the called party may have in using Caller ID.

5. A recent, as yet unpublished, Pennsylvania court decision indicates that Southern Bell's Caller ID service may be illegal. See cover sheet attached.

WHEREFORE, THE FLORIDA MEDICAL ASSOCIATION respectfully requests the Public Service Commission to hold hearings prior to taking final agency action.

Respectfully submitted,



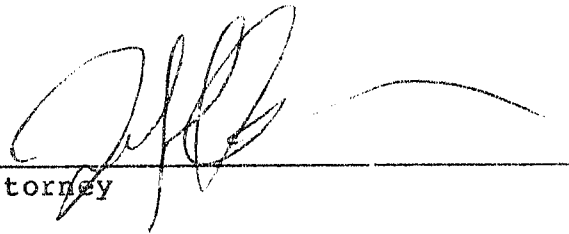
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by United States Mail this 2nd day of June, 1990 to:

Public Service Commission
101 East Gaines Street
Tallahassee, FL 32301

Public Counsel
Office of the Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 801
Tallahassee, FL 32399-1400



Attorney

DAVID M. BARASCH, Consumer
Advocate, Petitioner

v.

PENNSYLVANIA PUBLIC UTILITY
COMMISSION, Respondent

IN THE COMMONWEALTH COURT
OF PENNSYLVANIA

NO. 2270 C.D. 1989

PENNSYLVANIA COALITION AGAINST
DOMESTIC VIOLENCE and MARY JANE
ISENBERG, Petitioners

v.

PENNSYLVANIA PUBLIC UTILITY
COMMISSION, Respondent

IN THE COMMONWEALTH COURT
OF PENNSYLVANIA

NO. 2268 C.D. 1989

BARRY STEINHARDT, THE AMERICAN
CIVIL LIBERTIES UNION OF
PENNSYLVANIA, Petitioners

v.

PENNSYLVANIA PUBLIC UTILITY
COMMISSION, Respondent

IN THE COMMONWEALTH COURT
OF PENNSYLVANIA

NO. 2324 C.D. 1989

CONSUMER EDUCATION AND
PROTECTIVE ASSOCIATION and
CAROL WALTON, Petitioners

v.

PENNSYLVANIA PUBLIC UTILITY
COMMISSION, Respondent

IN THE COMMONWEALTH COURT
OF PENNSYLVANIA

NO. 2371 C.D. 1989

BEFORE:

HONORABLE JAMES CRUMLISH, JR., President Judge
HONORABLE DAVID W. CRAIG, Judge
HONORABLE BERNARD L. MCGINLEY, Judge
HONORABLE DORIS A. SMITH, Judge
HONORABLE DAN PELLEGRINI, Judge

ARGUED: February 7, 1990

This matter comes before the Court on a petition for review of the November 9, 1989 order entered by the Pennsylvania Public Utility Commission (Commission) which rejected the Recommended Decision of Administrative Law Judge Michael Schnierle (ALJ) and approved the use of a customer service reintroduced by Bell of Pennsylvania (Bell)¹ identified as Caller*ID. This service would permit customers to identify the telephone number from which a call is being made to the customer and is to be offered with limited blocking for private, nonprofit, tax-exempt domestic violence intervention agencies; home telephones of staff members of such agencies whose personal safety may be at risk if blocking is not provided and who are certified to require blocking service by the agency head; federal, state and local law enforcement agencies; and persons for whom a duly authorized representative of federal, state and local law enforcement agencies have certified a need for blocking to mitigate the risk of personal injury.

The Commission concluded that by implementing Caller*ID, lives can be saved; annoying, harassing, abusive, obscene and terroristic telephone calls can be curtailed; false bomb threats to public schools, false fire alarms and other harassing and life threatening prank calls may be eliminated or reduced; and residential callers will have their privacy better safeguarded.

¹References to Bell's arguments throughout this opinion are generally considered to be those of Bell and Respondent Commission jointly.

Petitioners filed complaints before the Commission against the proposed Caller*ID service. On December 29, 1989, this Court granted Petitioners' joint application for partial stay of the Commission order and directed that Caller*ID be offered only to emergency service providers pending final disposition of Petitioners' appeal.

Multiple issues are presented for review, including questions as to whether the use of Caller*ID without a blocking mechanism constitutes a violation of the Pennsylvania Wiretapping and Electronic Surveillance Control Act (Wiretap Act);² whether authorization of Caller*ID by the Commission without a blocking mechanism constitutes a violation of privacy rights protected by the Pennsylvania and U. S. Constitutions; whether the Commission's order requiring limited blocking violates due process and is unlawfully discriminatory where the certification procedure ordered by the Commission lacks procedural safeguards; and finally, whether the Commission's order is supported by substantial evidence of record. The scope of review in this matter is limited to determining whether or not the Commission violated any constitutional rights, committed an error of law, or made findings which are not supported by substantial evidence. Bell Telephone Co. of Pennsylvania v. Pennsylvania Public Utility Commission, 80 Pa. Commonwealth Ct. 331, 478 A.2d 921 (1984), appeal dismissed as improvidently granted, 518 Pa. 76, 541 A.2d 314 (1988); 2 Pa. C.S. §704 (Supp. 1989).

²18 Pa. C.S. §§5701-5781.

Caller ID Service Banned by Pennsylvania Appeals Court

By HARRY LUI CARONVALLE

Staff Reporter of THE WALL STREET JOURNAL
A Pennsylvania appeals court barred Bell of Pennsylvania's Caller ID service, saying it violates the state's wiretap law and constitutional right to privacy.

In a ruling with nationwide implications, the court overruled a November decision by the state Public Utilities Commission that allowed the Bell Atlantic Corp. to offer the service. Caller ID permits customers to identify the telephone number of incoming calls.

The Pennsylvania Commonwealth Court ruled in 1988 that the service violates the state wiretap law's provision banning trap and trace devices and split 2-2 on the issue of violating privacy rights. The court then heard last fall's case that the service was illegal whether or not the phone company allowed customers to block the transmission

of their phone numbers.

The company said it was "extremely disappointed" and indicated it would appeal. "We will carefully study this ruling before deciding our next action, but a clear option is to ask for judicial review by the Supreme Court of Pennsylvania," said Bill Hartzel, vice president, external affairs, for Bell of Pennsylvania. In banning the service even if customers were allowed to block their numbers, the court went beyond what opponents had sought, the company complained.

The suit was filed against the companies by the state Consumer Advocates' office, the Pennsylvania Coalition Against Domestic Violence, the American Civil Liberties Union and the Consumer Alliance

tion and Protective Association.

"We're grateful, of course," said Daniel Clearfield, Pennsylvania's senior assistant consumer advocate. "This affirms consumers' right to control the disclosure of personal information, a fact that was recognized by the phone company."

In its 23-page ruling, the court said that neither the device that lets customers see phone numbers of people calling or the information that is collected is "controlled or managed by Bell and caller by the customer subscriber, clearly violating the trap and trace device prohibition."

The issues raised by the Pennsylvania case are likely to be repeated as phone companies roll out Caller ID services across the country. Privacy rights, said

Mr. Clearfield, "are very carefully protected in our society, and user courts begin to take a hard look at Caller ID, they will see through the phone company line that the service enhances privacy."

So far, Bell Atlantic has been the lone aggressive of the seven regional Bell companies in introducing the service, having begun offering it more than two years ago in New Jersey. Bell Atlantic units also offer Caller ID service in Maryland, Virginia and West Virginia. The company has promoted Caller ID as a guard against harassing or obscene calls, and claims that most Caller ID subscribers have indicated numbers and want the service to further protect their privacy.

A Bell of Pennsylvania spokesman acknowledged that the ruling "could lead to other states looking at this and concluding

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Pennsylvania Court Bars Caller ID Service In Ruling on Privacy

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that they need to take a closer look at Caller ID. But frankly, I don't think this story is completed." Caller ID proposals have generated intense debate in several states, including California, Nevada, Ohio, Indiana, and in the District of Columbia. In California, the issue was resolved by a new law that allows customers to block the transmission of their number on a call-by-call basis.

Bell of Pennsylvania has been providing Caller ID in Pennsylvania on a limited basis to police and ambulance services as a cheaper alternative to 911 service, a spokesman said. The company's plan to offer it to customers in Philadelphia and Harrisburg was blocked until the case was decided.

The issue has made its way to Congress, where Sen. Herbert Kohl (D., Wis.) is pushing a bill that would require phone companies to block the transmission of numbers at customers' request. The bill is scheduled for a committee markup next week.

Among consumer advocates and privacy experts, the court decision was viewed as an important first step. They worry that Caller ID violates callers' expectations that their number is private. Many contend the service could increase telemarketing and other sales calls and threatens the effectiveness of hotlines, tip lines for law enforcement agencies, shelters for battered women and other community services that depend on maintaining a caller's anonymity.

"The state court reaffirmed a central principle that the phone subscriber—not the phone company—should decide when to disclose phone numbers," said Marc Rotenberg, head of the Washington office of Computer Professionals for Social Responsibility.

Court strikes down caller ID

New York Times News Service

A Pennsylvania court ruled Wednesday that telephone services that identify the numbers of callers are an illegal invasion of privacy.

The verdict was the first in the nation on the legality of such services. The five judges of the Commonwealth Court, a mid-level state appellate court, ruled unanimously that caller identification services, which allow people to see the number from which a call is made before they answer, violate Pennsylvania's wiretap law.

All five judges found that the services violate the law even when telephone companies allow some customers to block the release of their telephone numbers. And the court ruled 3-2 that the services violate privacy protections offered by the Pennsylvania Constitution.

But Bell of Pennsylvania criti-

cized the ruling. "Because of this decision, Pennsylvanians are being denied a service they eagerly want and badly need — a weapon against harassing, threatening or obscene calls," Bill Huerst, Bell of Pennsylvania's vice president of external affairs, said in a statement.

John F. Povilaitis said the Pennsylvania Public Utility Commission had three options: to ask within 15 days that the Commonwealth Court hear the case again; to file an appeal before the Pennsylvania Supreme Court within 30 days; or to allow the decision to stand.

Bell of Pennsylvania was not named as a defendant in the case. But the company said it qualified as a party and would be able to appeal the ruling to the Pennsylvania Supreme Court even if the PUC decides not to pursue the issue.