



STATE OF FLORIDA

OFFICE OF ATTORNEY GENERAL

ROBERT A. BUTTERWORTH

FILE COPY  
ORIGINAL

July 13, 1990

891194-TI

Mr. Gerald Gunter  
Public Service Commission  
101 E. Gaines Street  
Tallahassee, Florida 32399-0850

Dear Commissioner Gunter:

Enclosed is a copy of my request for a formal evidentiary hearing concerning the matter of Caller Identification devices. I believe that the question is one of great importance to the citizenry of Florida and I urge you to give it careful consideration.

Sincerely,

Robert A. Butterworth  
Attorney General

RAB/cks

Enclosure

ACK	AFA	APP	CAF	CMU	CTR	EAG	LEG	LIN	OPC	RCH	SEC	WAS	OTH
							<i>w/m</i>	<i>le</i>					

DOCUMENT NUMBER-DATE  
06335 JUL 17 1990  
PSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Proposed tariff filings by ) Docket No. 891194-TI  
SOUTHERN BELL TELEPHONE AND TELEGRAPH ) Filed: June 7, 1990  
COMPANY clarifying when a nonpublished )  
number can be disclosed and introducing )  
Caller ID to TouchStar Service )

REQUEST FOR HEARINGS

Pursuant to Chapters 120 and 164, Fla. Stat., undersigned, Attorney General Robert A. Butterworth, requests this Commission hold a formal evidentiary proceeding under §120.57(1), Fla. Stat., on Southern Bell's tariff filing introducing "Caller Identification" service (Caller ID) and changing the circumstances when a nonpublished number can be disclosed. In support of this request, the following is asserted:

1. The technology and concept of Caller ID present this Commission and the people of the State of Florida with questions of first impression that impact upon a variety of public and societal concerns. Included among these concerns are the right to individual privacy as outlined in Art. I, Sec. 9, Fla. Const., the statutory right to electronic communication privacy set forth in Chapter 934, Fla. Stat., and potential impact upon the law enforcement agencies of this state including the Florida Department of Law Enforcement (FDLE), the various county sheriffs and other local law enforcement agencies. It is respectfully suggested that this Commission not decide to either approve or

DOCUMENT NUMBER DATE

06335 JUL 17 1990

PSC-RECORDS/REPORTING

disapprove the tariff outlined above until detailed and exhaustive fact-finding is completed on these important issues.

2. Undersigned has reviewed the decision of the Commonwealth Court of Pennsylvania in the case of Barasch v. Pennsylvania Public Utilities Commission, et al., No. 2371C.D., May 30, 1990, in which the Pennsylvania Court of Appeals declared that a similar Caller ID program violated both the Pennsylvania state constitution privacy guarantee and Pennsylvania's Wire-tapping and Electronic Surveillance Control Act, 18 Pa.C.S. §§ 5701-5781. Undersigned is concerned that the questions addressed in Pennsylvania require specific fact-finding given the similarity between Pennsylvania and Florida law. Undersigned is also concerned that the strong statement affirming personal privacy rights outlined in the Florida Constitution may significantly impact upon this Commission's ability to allow Southern Bell the opportunity to increase its tariff and provide the service. For example, Shaktman v. State, 553 So.2d 148 (Fla. 1989), holds that the use of "pen register" or other telephonic surveillance devices are subject to strict constitutional scrutiny in Florida. Without detailed fact-finding, this Commission will not be in a posture to determine what impact the constitutional right to privacy may have on this decision. It merits notice that the Pennsylvania decision was reached only after fact-finding proceedings were held by an administrative law judge.

3. Lastly, undersigned is gravely concerned with the possible negative impact that Caller ID systems might have upon law enforcement activity. As chief law enforcement officer of the State of Florida, undersigned joins the resolutions and statements provided to the Commission by the various sheriffs and police chiefs which indicate that application of a Caller ID system would significantly hamper legitimate law enforcement efforts.

4. Undersigned would also urge this Court carefully consider the request presented by public counsel and the Florida Medical Association because they appear to raise other extremely important concerns which can only be fully developed after a fact-finding procedure.

Wherefore, the Attorney General respectfully requests the Commission hold hearings to further detail the exact nature of the Caller ID program and its potential impact upon individual privacy rights and law enforcement tactics prior to any decision approving or disapproving the tariff request.

Respectfully submitted,

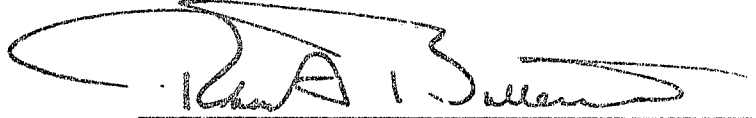


ROBERT A. BUTTERWORTH  
Attorney General

DEPARTMENT OF LEGAL AFFAIRS  
The Capitol  
Tallahassee, Florida 32399-1050  
(904) 488-0600

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to the following list of people, this 13<sup>th</sup> day of July, 1990.



ROBERT A. BUTTERWORTH  
Attorney General

RICHARD E. DORAN  
Director, Criminal Appeals

DEPARTMENT OF LEGAL AFFAIRS  
The Capitol  
Tallahassee, Florida 32399-1050  
(904) 488-0600

Southern Bell Telephone and  
Telegraph Company  
Attn: Marshall M. Criser, III  
150 S. Monroe Street, #400  
Tallahassee, Fl 32301

Messer Law Firm  
Attn: Bruce Renard  
Post Office Box 1875  
Tallahassee, Fl 32302-1876

A Asbaco Locksmith  
Attn: David Merkatz  
Post Office Box 5301  
Ft. Lauderdale, Fl 33310

Winston Pierce  
Department of General Services  
Koger Executive Center  
2737 Centerview Drive  
- Knight Building #110  
Tallahassee, Fl 32399-0950

Mike Ramage  
Florida Department of Law  
Enforcement  
Post Office Box 1489  
Tallahassee, Fl 32302

Jeffrey Cohen  
Attorney for Florida Medical  
Association  
Post Office Box 2411  
Jacksonville, Fl 32203

Jack Shreve  
Public Counsel  
111 West Madison Street  
Room 812  
Tallahassee, Fl 32399-1400

Willis Booth  
Florida Police Chiefs Association  
Post Office Box 14038  
Tallahassee, Fl 32317-4038

J. M. "Buddy" Phillips  
Florida Sheriff's Association  
Post Office Box 1487  
Tallahassee, Fl 32302-1487

Charlene Carres  
American Civil Liberties Union  
Post Office Box 1031  
Tallahassee, Fl 32302