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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed tariff filing by) Docket No. 891194-TI
SOUTHERN BELL TELEPHONE AND TELEGRAPH) Filed: October 26, 1990
COMPANY clarifying when a nonpublished)
number can be disclosed and introducing)
Caller ID to Touchstar Service)

REBUTTAL TESTIMONY OF

FLORIDA DEPARTMENT OF LAW ENFORCEMENT WITNESS

SPECIAL AGENT

RONALD P. TUDOR

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1. Q. PLEASE STATE YOUR NAME, ADDRESS, AND OCCUPATION.
2. A. Ronald P. Tudor, P.O. Box 1489, Tallahassee, Florida,
3. 32302, Special Agent, Florida Department of Law Enforcement.
4. Q. WHAT IS THE PURPOSE OF THIS SUPPLEMENTAL TESTIMONY?
5. A. To clarify matters addressed in response to my direct
6. testimony as originally filed in this matter, and to rebut
7. certain assertions or matters asserted by others providing
8. direct testimony in this matter.
9. Q. ARE YOU FAMILIAR WITH THE DIRECT FILED TESTIMONY OF
10. LARRY K. RADIN, GTE TELEPHONE OPERATIONS SOUTH AREA SECURITY
11. DIRECTOR, AS HAS BEEN FILED IN THIS MATTER?
12. A. Yes.
13. Q. ON PAGE 10 OF MR. RADIN'S TESTIMONY, REGARDING GTE'S
14. PROPOSED PROTECTED NUMBER SERVICE, KNOWN AS PNS, HE STATES:
15. "MY CONTACTS WITH LAW ENFORCEMENT OFFICIALS HAVE LED TO A
16. RECOGNITION THAT PNS WILL ADDRESS THE MAJORITY OF THEIR
17. CONCERNS REGARDING THE NEED FOR CONFIDENTIALITY"---DOES MR.
18. RADIN'S STATEMENT ACCURATELY REFLECT THE POSITION OF FDLE
19. AND THE TASK FORCE?
20. A. No It does not. PNS, like other phone company
21. options, will assist in addressing law enforcement's need
22. for confidentiality but will not alleviate the majority of
23. FDLE or the Task Force's concerns. Our primary concern is
24. the safety of undercover operatives. PNS and similar
25. options will not alleviate our concern in this regard.

1. PNS as an option has its own drawbacks. It is a
2. presubscribed service, meaning only previously-identified
3. phones could be utilized to generate the "fictitious,
4. unpublished" number. As I pointed out in my direct exam
5. testimony, undercover investigations, particularly narcotics
6. investigations, are anything but predictable. Law
7. enforcement will not always have the option of utilizing a
8. phone from which we have secured PNS service ahead of time.
9. Like the other options suggested by Bell and other phone
10. companies, the lack of easily available use on a moment's
11. notice could result in the PNS option not being a viable
12. alternative.

13. PNS generates a phone number to be displayed upon a
14. "Caller ID" unit box. While that number is not published,
15. there is a possibility that records generated somewhere
16. within the phone system could link the number to the law
17. enforcement agency. While this risk might be reduced by
18. generating fictitious address and name records, this
19. requires creating such records for each PNS site, and will
20. require the ability to change, on very short notice, the
21. fictional name, the fictional address, etc. as demanded by
22. the investigation. Frequently in an investigation, numerous
23. law enforcement operatives may be called upon to utilize the
24. same undercover phone line. It should be obvious that the
25. same number could not be delivered to the criminal under

1. investigation each time a different operative utilizes the
2. undercover phone.

3. Since the numbers assigned to our undercover lines
4. are presently not being displayed, this has never been a
5. concern. Should "Caller ID" be implemented without
6. universal blocking, there is created a risk of detection
7. that simply is not a concern if no number is displayed.
8. This risk would be reduced in the case when law enforcement
9. "blocks" the display as part of universally-available
10. "Caller ID" blocking.

11 The PNS displayed number could be called back by a
12. criminal, thereby creating additional concerns about a
13. "slip-up" that could have severe and even fatal
14. consequences. For example, one could accidentally answer a
15. call placed to the "PNS-generated" phone number, even though
16. a distinctive ring has been occurring. Any unusual or
17. unexpected response could serve to "tip" a criminal that the
18. undercover operative he has been dealing with is someone
19. other than who he claims to be. The dire consequences of
20. such a revelation are obvious.

21. PNS should be considered an option that certainly is
22. welcome as law enforcement attempts to address our security
23. concerns if "Caller ID" is implemented, but it not a cure-
24. all as GTE seems to suggests.

25. Law enforcement's consideration of all these phone-

1. suggested options to address "Caller ID" problems would not
2. even be necessary but for the implementation of "Caller ID"
3. at the phone company's requests. Our basic position remains
4. unchanged: if you put law enforcement officers in jeopardy
5. through your proposed system, then it is your responsibility
6. to do everything possible to eliminate that jeopardy and
7. allow law enforcement to continue with its investigative
8. function with a minimum of administrative, bureaucratic, o
9. procedural interference.

10. Q. ON THE SAME PAGE OF MR. RADIN'S PREFILED TESTIMONY,
11. HE INDICATES "THE PRINCIPAL OBJECTION TO PNS RAISED BY LAW
12. ENFORCEMENT OFFICIALS HAS BEEN THEIR DESIRE FOR UNIFORMITY
13. IN THE WAY CALLING NUMBER IDENTIFICATION FEATURES ARE
14. OFFERED THROUGHOUT FLORIDA." DOES THIS ACCURATELY STATE THE
15. POSITION OF FDLE AND THE TASK FORCE?

16. A. No. The principal objection to PNS or any other
17. alternative to "Caller ID" offered by phone companies in
18. Florida is that they are being offered as a substitute for
19. the universally-available blocking option instead of being
20. offered as a supplement to the blocking option. As stated
21. in my prefiled direct testimony, there are numerous reasons
22. why, in order to protect the safety of undercover
23. operatives, universally-available blocking should be made a
24. part of any "Caller ID" offering. Law enforcement's
25. principal concern remains the safety of our officers and

1. operatives..

2. Obviously, it is important to law enforcement,
3. particularly to FDLE which has statewide enforcement
4. responsibilities, that a uniform and consistent system that
5. offers the universally-available blocking be offered
6. statewide. As a matter of operations, FDLE investigations
7. may begin at one end of the state and move throughout the
8. state as the investigation progresses. Consistency of
9. approach to "Caller ID" on a statewide basis, with statewide
10. universally-available blocking, is what is preferred. That
11. universally-available per call blocking should be the
12. uniform statewide Florida standard for any implemented
13. "Caller ID" system is further supported by the fact that at
14. least two phone companies providing service in Florida,
15. CENTEL and United Telephone Company of Florida, have
16. indicated they intend to offer some form of per call
17. blocking.

18. When PMS is viewed in the context of one of many
19. alternatives for addressing "Caller ID" related concerns, it
20. would be the desire of FDLE that (1) all the other
21. alternatives suggested by phone companies be offered in
22. addition to universally-available blocking; and (2) that
23. "Caller ID" with call blocking and the other options be
24. instituted in a consistent fashion statewide as long as such
25. consistency works to resolve law enforcement safety

1. concerns.

2. Q. ARE YOU FAMILIAR WITH THE PREFILED DIRECT TESTIMONY
3. OF SOUTHERN BELL WITNESS NANCY SIMS?

4. A. I am.

5. Q. ON PAGE 13 OF HER TESTIMONY, MS. SIMS INDICATES THAT
6. WITH REGARD TO THE SPECIAL NEEDS OF LAW ENFORCEMENT, "MANY
7. NEW AND CREATIVE ALTERNATIVES THAT ADEQUATELY MEET THE NEEDS
8. OF LAW ENFORCEMENT HAVE BEEN DEVELOPED AS A RESULT OF THE
9. JOINT COLLABORATION BETWEEN LAW ENFORCEMENT AND THE COMPANY
10. OVER THE PAST MONTHS." WHAT IS THE POSITION OF FDLE AND THE
11. TASK FORCE IN THIS REGARD?

12. A. The alternatives suggested by Southern Bell, and
13. similar alternatives such as PNS as suggested by GTE, do not
14. "adequately" meet the needs of law enforcement in that,
15. standing alone, they do not resolve the ultimate concern for
16. safety and integrity of investigations that has motivated
17. FDLE and the Task Force's opposition to Southern Bell's
18. proposal. As has been stated time and time again, the
19. options should not be considered substitutes for
20. implementing "Caller ID" with universally-available
21. blocking. They should be considered as additional ways of
22. protecting undercover operatives and law enforcement
23. officers. Concerns for the safety of law enforcement
24. undercover operatives will continue even with "Caller ID"
25. offered with universally-available blocking and even with

1. the additional options being made available.

2. The more options made available to law enforcement
3. above and beyond universally-available "Caller ID" blocking,
4. the better. In our opinion, what is adequate in resolving
5. our concerns should include every available alternative,
6. since in practice an inadequate option could result in the
7. death of a law enforcement officer or operative.

8. I also want to clarify that in my opinion, and in the
9. opinion of the Task Force, Southern Bell merely suggested
10. options for purposes of discussion. At no meeting of the
11. Task Force did a Southern Bell representative indicate he
12. was authorized to commit the Company to a position. In
13. fact, just the opposite was true. Whenever the Task Force
14. indicated a willingness to consider an option, the typical
15. response was, "I'll have to run this by Atlanta offices."
16. At least with regard to the discussion of display of numbers
17. selected by law enforcement, the issue became moot by reason
18. of indications from Southern Bell representatives that there
19. was "no way" Southern Bell's legal staff would approve the
20. program. To the extent that Ms. Sims suggests there was
21. closure and agreement on any area discussed between the Task
22. Force and the Southern Bell representatives, such a
23. suggestion is inaccurate.

24.

25.

1. Q. ON PAGE 13 OF MS. SIMS' TESTIMONY, SHE INDICATES THAT
2. BELL OFFERED THE OPTIONS AT NO COST. IS THIS AN ACCURATE
3. SUMMARY OF BELL'S POSITION IN YOUR OPINION?

4. A. Like I just indicated, Southern Bell suggested many
5. options, but never formally offered them. To my knowledge,
6. no person with authority to bind Southern Bell to a position
7. ever made an "offer" to the Task Force. Furthermore, Mark
8. Long, a staff member of the Public Service Commission,
9. indicated at a meeting of the Task Force that some of the
10. suggestions that services be offered without cost would
11. require PSC approval and were not things Southern Bell could
12. unilaterally commit to.

13. Q. ALSO ON PAGE 13 OF MS. SIMS' TESTIMONY, SHE
14. INDICATES, "SOUTHERN BELL, HOWEVER, IS NOT WILLING TO MEET
15. LAW ENFORCEMENT'S REQUEST THAT THEY BE PROVIDED WITH THE
16. ABILITY TO DELIVER ANYONE'S NUMBER SINCE IT COULD JEOPARDIZE
17. THE GENERAL PUBLIC." DOES THIS ACCURATELY REFLECT WHAT
18. FOLE AND THE TASK FORCE SUGGESTED IN THIS REGARD?

19. A. No. FDLE and the Task Force did indicate a desire to
20. be able to generate displays of phone numbers that were
21. relevant to the investigation. For example, if a criminal
22. expected a return call from a phone located in the bus
23. station and for security purposes we needed to place that
24. call from a more controlled location, we would like to be
25. able to generate the phone number of the bus station phone

1. when we make the call. It would be irresponsible to suggest
2. law enforcement wants the ability to pull a number that does
3. not relate to an investigation and display that on a "Caller
4. ID" display box.

5. In this regard, we indicated that if a court order
6. would be preferred to allow such displays, law enforcement
7. would agree to the same. As indicated above, after Southern
8. Bell representatives indicated there was "no way" Southern
9. Bell would accept this option, the issue became moot.
10. We also sought a listing of pay phone numbers in the
11. communities, with the suggestion that we display the number
12. of the pay phone rather than individual business or
13. residential numbers, but Southern Bell's representatives
14. indicated such numbers would not be provided.

15. Q. WAS THE "GENERATE A NUMBER" OPTION A MAJOR DESIRE OF
16. FDLE AND THE TASK FORCE?

17. A. It was, and remains, only one of numerous options we
18. considered of value in addition to universally-available
19. "Caller ID" blocking. In fact, the volume of options
20. discussed serves to underscore another major concern of FDLE
21. and the Task Force, which is that to the greatest extent
22. possible, a uniform approach to "Caller ID" and the options
23. for addressing problems associated therewith should be
24. implemented in Florida.

25.

1. Q. REGARDING MS. SIMS'S TESTIMONY AT PAGES 24 AND 25,
2. WHERE SHE DETAILS SOUTHERN BELL'S SUGGESTED CRITERIA FOR
3. ALLOWING BLOCKING, IS THERE ANY CONCERN ON YOUR PART WITH
4. THAT CRITERIA?

5. A. First, and most obvious, is our objection to limited
6. blocking in any form. It must be universally-available.

7. Second, if limited blocking were all that is offered,
8. and the Southern Bell criteria is applied, it would appear
9. that criteria item number three would assure that blocking
10. would rarely, if ever, occur. Since Southern Bell would be
11. "judge and jury" on whether criteria was met, Southern Bell
12. could, for example, take the position that "utilizing a pay
13. phone" is a "reasonable offering" in lieu of blocking that
14. will protect desired anonymity.

15. In fact, Ms. Sims indicated the real possibility of
16. such an response when, on page 11, she indicated that
17. customers with nonpublished numbers or "any other Southern
18. Bell subscriber", which presumably would include law
19. enforcement, who does not wish a certain party to have his
20. number can (1) choose not to call the person; (2) call from
21. a different number; (3) or use a method such as calling
22. through an operator.

23. Third, what is "reasonable" from Southern Bell's
24. perspective is not "reasonable" from law enforcement's
25. perspective. To imply that utilization of "alternatives"

1. will be an occasional task is unrealistic. It ignores the
2. reality that the caller often will not know if a person
3. called has "Caller ID" or not. From a law enforcement
4. perspective this means undercover investigators should act
5. under the assumption that "Caller ID" will be a factor in
6. virtually any call made. This is precisely the type of
7. complexity referred to by me in my direct testimony, and
8. which forms at least part of our objection to Southern
9. Bell's proposal.

10. Fourth, the posture taken by the phone companies
11. regarding blocking as reflected in Ms. Sims' testimony seems
12. to be the reverse of what is most appropriate. Rather than
13. trying to limit the persons for whom blocking is made
14. available to a very small portion of the phone using
15. population, why not make blocking universally available, but
16. then define those entities or persons that should have their
17. phone service configured so as to allow delivery of the
18. caller's number on all calls received regardless of whether
19. the caller has attempted to block.

20. Since the blocking function is done by computer, this
21. would be merely a task of reprogramming software or
22. implementing new commands to the computer. This would allow
23. for example, schools, law enforcement agencies, emergency
24. service providers, crisis intervention programs, and similar
25. entities to utilize "Caller ID" to display the numbers of

1. all received calls, regardless of whether the caller tried
2. to block or not. This is very similar to the Enhanced 911
3. capability already in place.

4. Classes of phones to which the blocking option would
5. not be made available could be identified. For example, the
6. numbers assigned to pay phones and phones in jails and
7. correctional institutions could be programmed to disallow
8. the blocking option.

9. By viewing the blocking question from this
10. perspective, I believe the law enforcement security
11. concerns, and the privacy concerns raised by those opposed
12. to "Caller ID" without universal blocking can be met. At
13. the same time, the concerns of many of those who might be
14. opposed to receiving blocked calls could be addressed by
15. defining those classes of customers or types of phones as
16. indicated above.

17. I submit that this represents an innovative
18. alternative that better addresses the large number of
19. concerns about blocking of "Caller ID." Blocking as
20. approached from this perspective, coupled with "Call Block",
21. "Call Trace" and the other CLASS type features would appear
22. to address the concerns of virtually every phone user which
23. have been voiced in the hearings and testimony regarding
24. this matter.

25.

1. While this last suggestion may not be the answer to
2. all "Caller ID" blocking concerns, it certainly is an
3. alternative that deserves serious consideration.

4. Q. ARE THERE ANY LIMITATIONS TO TODAY`S TESTIMONY ON
5. YOUR PART?

6. A. I want to make it clear that the Department of Law
7. Enforcement will be addressing Issues #2, #3, and #4, the
8. legal issues, in its post-hearing brief and my comments in
9. no way are intended to limit FDLE`s posture in that regard

10. Q. DOES THIS CONCLUDE YOUR SUPPLEMENTARY TESTIMONY?

11. A. Yes.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the "Rebuttal Testimony of Florida Department Of Law Enforcement Witness Special Agent Ron Tudor" has been furnished by U.S. Mail or hand-delivery to the following parties this 26th day of October, 1990.

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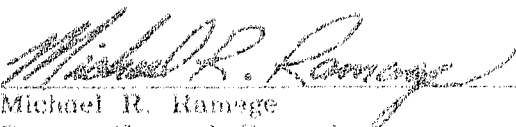
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