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January 11, 1991

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In re: Proposed tariff filings by SOUTHERN BELL TELEPHONE AND
TELEGRAPH COMPANY clarifying when a nonpublished number can be
disclosed and introducing Caller ID to TouchStar Service

Enclosed please find the original and 15 copies of the Brief of the
Department of General Services.

If I may be of further assistance, please do not hesitate to
contact me.

Sincerely,

ACK Stephen S. Mathues
AFA Staff Attorney

APP SSM:ml

CAF Enclosures

CMT

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed tariff filings by) DOCKET NO. 891194-TL
SOUTHERN BELL TELEPHONE AND TELEGRAPH) Filed: 1/11/91
COMPANY clarifying when a nonpublished)
number can be disclosed and introducing)
Caller ID to TouchStar Service)
_____)

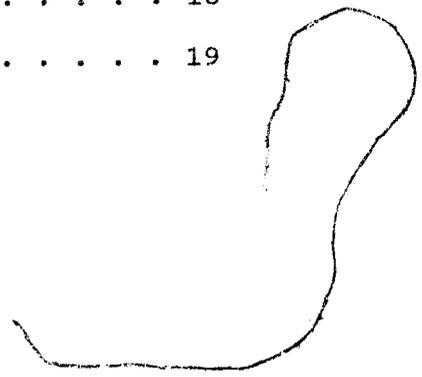
BRIEF OF THE DEPARTMENT OF GENERAL SERVICES

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INTRODUCTION

Pursuant to notice, this cause was heard on November 28 and 29, 1990, on the issues presented in the Commission's Prehearing Order dated November 21, 1990. The position of the Department of General Services (DGS) on each of these issues is presented below.

Argument on several pending motions was heard by the Commission during the course of the hearing. Filing on the Public Counsel's Motion To Consolidate Consideration of Caller ID Tariff Filings and to Conduct Generic Hearing was deferred to the Agenda Conference. Subsequent to the close of the hearing, the Public Counsel filed his Motion for Additional Hearing and for Other Relief, in which DGS joined. By filing this brief, DGS does not waive or alter its position on either motion.

As used in this brief, unless otherwise noted, the words "block," "blocked" and "blocking," have the same meaning generally ascribed to them at the hearing: the optional prevention of the calling party's identifying information being displayed at the called party location. "Unblocked" refers to situations in which the caller does not have the option of preventing the display of the identifying information.

References to the transcript of the hearing shall be "T. ___" and references to the exhibits shall be "Ex. ___."

ISSUES AND ARGUMENT

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

DGS' PREHEARING 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.

POST-HEARING POSITION

Caller ID has two definitions. In the narrow sense, it is the display of the calling party's telephone number to the called party prior to the called party answering the telephone. T. 53, 490, 499, 1044. In the broad sense, it encompasses the passing of a range of information about the calling party through the telephone network. T. 489, 1045. This information can include directory number, calling party name and address, and personal identification codes. T. 490, 1044-45. When a calling party opts to block the forwarding of the outgoing number, under either definition, it is DGS' position that no information about the calling party should pass beyond the terminating switch. T. 1046, 1075.

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

DGS' PREHEARING POSITION: The Department of General Services took no position on this issue prior to the hearing, but reserved the right to do so at a later time.

POST-HEARING POSITION

DGS defers to the position taken by the Attorney General, Statewide Prosecutor and Florida Department of Law Enforcement in their joint brief.

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

DGS' PREHEARING POSITION: The Department of General Services took no position on this issue prior to the hearing, but reserved the right to do so at a later time.

POST-HEARING POSITION

DGS defers to the position taken by the Attorney General, Statewide Prosecutor and Florida Department of Law Enforcement in their joint brief.

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

DGS' PREHEARING POSITION: The Department of General Services took no position on this issue prior to the hearing, but reserved the right to do so at a later time.

POST-HEARING POSITION

DGS defers to the position taken by the Attorney General, Statewide Prosecutor and Florida Department of Law Enforcement in their joint brief.

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

DGS' PREHEARING 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.

POST-HEARING POSITION

DGS believes Caller ID can only be properly implemented if offered with free per-call and per-line outgoing number blocking. (See Issues 9 and 12 below.) If so implemented, Caller ID can be a very valuable addition to the SUNCOM Network's portfolio of services. According to DGS Witness Mayne:

[N]umerous agencies could take advantage of [it] by integrating this signaling into their current use of information management and come up with a better way to deliver either services or information back to the public in general, or to other agencies. T. 1048.

Research is currently underway to utilize Caller ID within the Department of State, Division of Corporations, the Department of Insurance and the Department of Education, teacher certification program. T. 1049. Other suggested uses include determining the status of applications, certificates, drivers' licenses and legislative bills. T. 1037. Overall, DGS approaches this technology very positively and anticipates it will serve good purposes. T. 1051.

Without proper implementation, Caller ID will impose detrimental impacts upon telephone users. In instances where a SUNCOM user deems it necessary to protect the outgoing number, for any of a variety of reasons (T. 614, 749, 1037), that user incurs

a cost. T. 600. All alternatives to blocking involve time; some also cost money. T. 99, 292-93, 600. In extreme cases, failure to use an alternative could jeopardize the caller's life. T. 818.

A more immediate and tangible detrimental effect will impact DGS during its present deployment of the initial phase of its Statewide 800 Megahertz Trunked Radio System. T. 915, 1043. The telephone industry has not even considered the existence of this System in the formulation of its policy. T. 449, 1043. It is crucial that this System operate uniformly throughout the state (T. 914, 1053-54) but there is inconsistency even within the Pilot Project. Southern Bell is opposing both line and call blocking while United will be offering free call blocking on a presubscription basis. T. 501, 1053-54.

One feature of the System is the telephone-interconnect capability, or phone patch. T. 914-15, 1053. With this feature, an officer can place a telephone call from a hand-held radio. T. 1055. Technically, this call consists of a radio frequency origination, transmission through a microwave backbone and entry into the public switched network. T. 1053. Essential aspects of the System are privacy and security of communications. T. 915. If those communications entered an unblocked telecommunications environment, much of the privacy and security would be negated. Id. Given the uncertainty of which environment an officer might be in, i. e., United's or Southern Bell's, the usefulness of the phone patch would be seriously diminished. T. 1053.

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?

DGS' PREHEARING 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.

POST-HEARING POSITION

Regarding the appropriateness of rate structures, the State of Florida, through official action of the Governor and Cabinet, has adopted the position that per-call and per-line blocking of the calling party's number should be offered free of charge uniformly, statewide, to all telephone users. T. 1031, Ex. 29. Offering blocking free of charge appears to be appropriate in that the subscription rate for Caller ID is far in excess of cost. T. 790. This would also be appropriate given Southern Bell's concession, "you could portray it," that the company is actually causing callers to incur the costs of using alternatives when it offers Caller ID without blocking. T. 313. Failure to provide blocking in this manner would subject telephone users to the costs which accompany all the alternatives. This would not be appropriate.

There is no other CLASS service which delivers the calling number to the called party (T. 283) so no other CLASS service has the same benefits and detriments. If the purpose of Call Trace is

to deter obscene and harassing calls, it should logically be offered as broadly as possible: uniformly to all subscribers at a reasonable per-trace fee. This form of delivery would provide the peace of mind or security which accompanies flat rate, presubscription Call Trace, but would alleviate the burden of anticipating the first obscene call.

Caller ID itself deters very few annoying calls. T. 622, 624. In fact, the most frequent form of annoyance call, telemarketing, can increase when Caller ID divulges a number to a specific market. T. 623. Caller ID can also result in reverse harassment to the innocent person who misdials a number. T. 627. To a lesser extent, this can happen with Call Return. T. 1090.

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

DGS' PREHEARING 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.

POST-HEARING POSITION

Just as there are many private subscribers who do not wish to have their numbers disclosed, there are certain SUNCOM numbers which are not published. T. 1064. If the business conducted on certain lines does not involve "security and safety," Southern Bell proposes to address requests to keep these numbers private on an individual basis. T. 298-99. Processing a request would take approximately thirty days (T. 297) with the customer having the right to "appeal" an adverse decision to this Commission. T. 299.

As pointed out by Public Counsel Witness Cooper, phone users:

. . . include public figures--judges, prosecutors, public utility commissioners . . . and legislators--who are in the public eye and need to keep their numbers private, but will be unable to do so with [unblocked] Caller ID. T. 614.

Even though Southern Bell acknowledges a "possibility" that some governmental communications might merit blocking (T. 299), DGS respectfully suggests that it is not in the public interest to interject the company as an arbiter in areas of executive, legislative and judicial privacy. This would be precisely the result if a governmental decision not release a number, for any reason, was made subject to review by the phone company.

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

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

POST-HEARING POSITION

DGS respectfully suggests that the testimony at the hearing showed a distinct concern for more than simply providing anonymity through the alternatives to blocking. DGS and the Department of Law Enforcement share a concern over the security and privacy of communications within the Statewide 800 Megahertz Trunked Radio System for State Law Enforcement. T. 914-15, 1043, 1055. The telephone patching capability of this System will be compromised without uniform line blocking. T. 1054. The industry has not suggested any alternative to this need.

Common sense dictates that none of the alternatives are as convenient as uniform, free line and call blocking. A pay phone costs a quarter, but the user needs the good fortune of finding a phone and a quarter concurrently. Operator assistance costs money; cellular phones cost money; outward-only services cost money. RingMaster and Protected Number Service cost money; and the inherent confusion of two different rings was highlighted by the Commission in its exchange with GTE Witness Radin beginning on page 475 of the transcript. Obviously, these devices would be inappropriate in many instances, especially where children or

frightened people would be expected to differentiate good rings from bad.

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

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

POST-HEARING POSITION

The manifest weight of the evidence dictates that the Commission should require universal per-call and per-line calling number blocking at no cost uniformly throughout the State. It was the conclusion of Public Counsel Witness Cooper that:

[N]umber forward blocking provides a significant benefit to the vast body of subscribers by allowing them to preserve the privacy of their telephone numbers, while also preserving the functionality and usefulness of the overall SS7 technology. T. 596-97.

Considering whom should bear the cost of blocking, Cooper found:

To impose such a cost on [Caller ID non-subscribers], when only a small number of subscribers appears likely to want the service, and when other offerings can accomplish the same goals, sacrifices the interests of the vast majority to the interests of a small minority. T. 634-35.

Cooper's finding is supported by the numbers. Southern Bell's projected take rate in Florida for Caller ID is 5-7% in three to five years. T. 271. Actual experience in New Jersey shows a 2% penetration (T. 128) and 1.2% in Tennessee. T. 195. In a survey including what might be called a worst-case scenario, 25% of the respondents said they would pay \$5.00 per month to block. T. 616. Another study showed 23% willing to pay \$3.00 per month for the option. T. 780-82. Simple math shows even those who are willing to pay for blocking outnumber the maximum projected takers by more

than three-to-one. When cost is removed as a factor, surveys show ever higher numbers of blockers--some up to 77%. T. 606.

Moreover, disturbing factors are inherent in Southern Bell's proposed application process for free (T. 63, 80) blocking privileges. Since Bell intends to charge for all alternatives (T. 110, 305), there is an underlying financial incentive to deny these requests. All applicants must prequalify (T. 278) which is expected to take some thirty days (T. 297) after which actual programming in the switch is necessary. T. 280. In the interim, presumably, all applicants would have to pay the going rate for the alternatives.

For the domestic violence agencies, there are the haunting certification problems for known victims: even Southern Bell acknowledges the intrinsic liability. T. 320. There is no solution for the unknown victims. This issue evaporates with universal blocking. T. 513, 954, 971, 988, 1025.

For law enforcement agencies, there is the stigma of "P for Police," the inability to blend in. T. 824, 878. This issue evaporates with universal blocking. T. 925, 1044.

For the SUNCOM Network, which utilizes every telephone company in Florida (T. 1087), and the Radio System, there remains the problem of non-uniform application. T. 845, 915, 917, 1053-54. This issue evaporates with universal blocking. T. 915, 1044.

For non-law enforcement governmental agencies, there remains the basic question of inserting the industry into purely governmental operations through the application process. Is it

appropriate for the phone company to presume to decide whether "no reasonable offering . . . other than blocking will protect [an agency's or employee's] desired anonymity?" T. 75-76. This issue evaporates with universal blocking.

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

DGS' PREHEARING POSITION: 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.

POST-HEARING POSITION

There is no question that different law enforcement agencies have different requirements based on consideration of size, geographic location, type of work and many other factors. T. 870-74. Nevertheless, an impressive alliance of diverse agencies has spoken out loudly in favor of per-line and per-call blocking in response to Caller ID.

Several telephone companies have already determined that they will initially offer free per-call blocking to law enforcement (as well as to the general population.) Centel has decided this will meet many concerns (T. 542), as has United. T. 512-13.

DGS, through the Division of Communications, articulated its position on March 22, 1990:

It is the policy of the State that if blocking of Caller ID is desired by any SUNCOM user, that such blocking be available on a line by line basis. Blocking should also be optional for each State telephone on a per call basis or a blanket blocking of Caller ID for all calls. Optional blocking should also be available to employees for all State business calls made while they are away from their offices. T. 1036.

This policy was adopted by the State Law Enforcement Chiefs Association, Inc. T. 911-12. DLE Witness Tudor, spokesman for the Law Enforcement Committee on Caller ID (T. 884, 912) endorsed the same general position as the best compromise for law enforcement. T. 819, 892.

DGS' policy was also endorsed by the Joint Task Force on State Agency Law Enforcement Communications Board of Directors. T. 1043, Ex. 30. The Joint Task Force is composed of five members, consisting of representatives of the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation, the Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles, the Department of Law Enforcement, the Game and Fresh Water Fish Commission, and the Division of Law Enforcement of the Department of Natural Resources. T. 1042.

In view of the foregoing, it remains DGS' position that free universal statewide per-call and per-line calling number blocking are the only special arrangements needed for state law enforcement operations and personnel in the event Caller ID is implemented.

11. What special arrangements, if any, should be made regarding Caller ID for any other group of groups?

DGS' PREHEARING POSITION: 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.

POST-HEARING POSITION

As noted in Issue 6 above, the Governor and Cabinet have adopted DGS' policy on per-call and per-line blocking as the State's official policy. T. 1031, Ex. 29. Under this policy, no additional arrangements need to be made for State agencies or the SUNCOM Network.

12. Is Caller ID in the public interest?

DGS' PREHEARING POSITION: 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.

POST-HEARING POSITION

In the event that Issues 2, 3 and 4 above are answered in the negative, Caller ID, with proper implementation, should be in the public interest. As outlined in Issues 5 and 11 above, proper implementation must include blocking. Given this consideration, DGS believes Caller ID can enhance the delivery of governmental services for the public good. T. 1047-50.

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?

DGS' PREHEARING POSITION: In the event that issues 2, 3, and 4 are answered in the negative, 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.

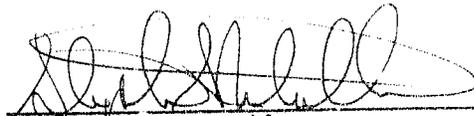
POST-HEARING POSITION

In addition to maintaining its original position that, if implemented at all, Caller ID should have uniform application statewide, DGS respectfully requests that sufficient lead time be allowed for preparation, training and education prior to such implementation. T. 1048-49, 1060, 1080-81.

CONCLUSION

In the event that Caller ID is ultimately found to be a legal offering in Florida, it should only be implemented on a uniform basis with free per-call and per-line blocking. In this manner, its potentially injurious effects would be minimized and each telephone user would retain the choice of using that device as deemed personally appropriate.

Respectfully submitted,



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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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COMPANY clarifying when a nonpublished)
number can be disclosed and introducing)
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_____)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the BRIEF OF THE DEPARTMENT OF GENERAL SERVICES have been furnished to the following parties by U.S. Mail this 11th day of January, 1991:

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