



JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, Florida 32399-1400
904-488-9330

January 15, 1991

Steve Tribble, Director
Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, FL 32399-0850

Re: Docket No.

910060-TP

Dear Mr. Tribble:

Enclosed for filing on behalf of the Citizens of the State of Florida are the original and 12 copies of Citizens' Petition to Initiate Rulemaking Proceedings Governing 900 Services.

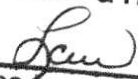
Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

Darlene Driscoll

Enclosure

RECEIVED & FILED


FPSC-BUREAU OF RECORDS

DOCUMENT 910060-TP
00445 JAN 15 1991
FPSC-RECORDS/REPORTING

~~App~~ App

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of the Attorney)
General and the Public Counsel)
to adopt rules governing 900)
services)

Docket No. 910060-TP
Filed: January 15, 1991

PETITION TO INITIATE RULEMAKING PROCEEDINGS
GOVERNING 900 SERVICES

Pursuant to section 120.54, Florida Statutes (1989) and Rule 25-22.012, Florida Administrative Code, the Attorney General and the Public Counsel petition the Florida Public Service Commission to adopt rules governing consumer protection necessitated by the provision of 900 services in Florida.

1. The Attorney General is the chief state legal officer¹ and has authority to appear in all suits in which the state may be interested². The Public Counsel provides legal representation for the people of the state in proceedings before the Commission and has authority to recommend the commencement of any proceeding before the Commission in the name of the state or its citizens³.

2. Consumers in Florida have been victimized by some providers of 900 service utilizing unfair and deceptive sales

¹Article IV, Section 4, Florida Constitution.

²Section 16.01, Florida Statutes (1989).

³Section 350.0611, Florida Statutes (1989).

DOCUMENT NUMBER-DATE
00445 JAN 15 1991
FSC-RECORDS/REPORTING

((((

techniques. Sometimes prizes may be offered that are never awarded, services are misrepresented, and callers are charged large amounts which first become known to the caller when it appears on the caller's bill from their local telephone company. Consumers are further victimized because billing for the products marketed through 900 numbers is accomplished with phone bills which people think they must pay. These bills fail to inform the consumer of rights to or the mechanism to dispute a 900 charge.

3. Callers must be given adequate information before incurring charges for 900 calls. Reasonable procedures must be available to terminate such calls before incurring charges. A procedure to resolve disputed charges which does not cost the consumer money must be instituted. Callers should be able to block all calls to any 900 service provider from their telephone without incurring a charge, and in no event should a caller's local telephone service be put in jeopardy because of a dispute with a 900 service provider.

4. The proposed rule attached to this petition provides protections for consumers. It requires billing disclosures and inserts in telephone bills, requires adoption of bill adjustment policies and practices required of regulated telephone companies, and requires adoption of standards governing the provision of billing services to 900 service providers by regulated telephone companies in Florida.

5. The undersigned petition the Commission to seize this opportunity to provide protection to the public from sales techniques inherent in the 900 industry and to adopt standards governing the billing of such services by the local exchange and interexchange telephone companies regulated by this Commission.

WHEREFORE, the Attorney General and the Public Counsel urge the Commission to initiate proceedings to adopt the attached rule.

/s/
Robert A. Butterworth
Attorney General

/s/
Jack Shreve
Public Counsel

Department of Legal Affairs
The Capitol
Tallahassee, FL 32399-1050

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

(904) 487-1963

(904) 488-9330

((((

**CERTIFICATE OF SERVICE
DOCKET NO.**

I HEREBY CERTIFY that a correct copy of the foregoing has been furnished by U.S. Mail or hand-delivery to the following parties on this 15th day of January, 1991.

Harris Anthony
Southern Bell Telephone and
Telegraph Company
c/o Marshall Criser, III
150 S. Monroe St., Suite 400
Tallahassee, FL 32301

David Smith
Division of Legal Services
Fla. Public Service Commission
101 East Gaines Street
Tallahassee, FL 32301

Thomas Parker
GTE Florida Incorporated
P.O. Box 110, MC 7
Tampa, FL 33601

Floyd Self
Messer, Vickers, Caparello,
French, Madsen & Lewis
P.O. Box 1876
Tallahassee, FL 32302

Alan Berg
United Telephone Company
P.O. Box 5000
Altamonte Springs, FL 32716

Joe Gillan
Gillan Associates
P.O. Box 541038
Orlando, FL 32854-1038

Tracy Hatch
Division of Legal Services
Fla. Public Service Commission
101 East Gaines Street
Tallahassee, FL 32301

Michael Tye
AT&T Communications
Suite 1410
106 East College Ave.
Tallahassee, FL 32301

Richard Melson
Hopping Boyd Green & Sams
P.O. Box 6526
Tallahassee, FL 32314

Dave Erwin
Mason, Erwin, Horton
1311-A Paul Russell, Suite 101
Tallahassee, FL 32301

Lee Willis
227 South Calhoun Street
P.O. Box 391
Tallahassee, FL 32302

Mickey Henry
MCI
400 Perimeter Center Terrace,
N.E., Suite 400
Atlanta, GA 30346

/s/
Charles J. Beck
Assistant Public Counsel

ATTACHMENT

PROPOSED RULE

25-4.118 900 and 976 Service. Each company billing Florida customers for 900 and 976 services must provide, at a minimum, the following consumer protections:

(1) Charges for 900 or 976 calls shall be segregated from charges for regular long distance or local charges on customers phone bills by appearing separately under a heading such as "900 or 976 Service Charges".

(2) The following information shall be clearly and conspicuously disclosed on each page containing 900 and 976 service charges:

(a) That non-payment of 900 or 976 service charges will not jeopardize local or other long distance service; and

(b) That the customer is entitled to dispute any 900 and 976 charge and to seek adjustment for those charges or any portion of the charges; and

(c) That the customer can call either a local or toll-free number for information on how to dispute charges and to obtain the phone number and address of the information provider; and

(d) That complaints against a 900 or 976 information provider can be made in writing to the Public Service Commission's Division of Consumer Affairs; and

(e) That customers can block access to 900 and 976 numbers by requesting such service from the billing entity.

(3) Inserts shall be included in the telephone bills on at least a quarterly basis which conspicuously and in more detail disclose the information contained in paragraphs (2)(a)-(e).

(4) Charges for 900 and 976 calls shall automatically be adjusted upon complaint that:

(a) The customer did not authorize the call or that the call was not made from his phone; or

(b) The customer did not receive a price advertisement, the price of the call was in any way misrepresented to the consumer, or the price advertisement received by the consumer was false, misleading, or deceptive in any manner; or

(c) The customer was misled, deceived, or confused in any way by the 900 or 976 program; or

(d) The customer no longer wishes to make a charitable or political contribution which was pledged or solicited through the use of a 900 or 976 call; or

(e) The 900 or 976 program was incomplete, garbled, or of such quality as to render it inaudible or unintelligible, or the customer was disconnected or cut-off from the service; or

(f) The customer hung up early in the call but was charged the customary or full amount for the 900 or 976 call.

(5) The companies billing 900 and 976 charges to customers in Florida will maintain a record of 900 and 976 numbers (by 900 or 976 number and the name, address and non-900 or non-976 telephone number of the IP) for which adjustments have been requested and on the basis of this report:

(a) Inform the IPs, the IXCs, and the Public Service Commission, Division of Consumer Services, of customer complaints against the IPs; and

(b) Monitor those 900 or 976 programs and/or advertising to determine whether the program is objectionable and whether the company will want to cease billing for that IP in the future.

(6) The companies billing 900 and 976 charges to customers in Florida will not collect or attempt to collect 900 or 976 charges which are disputed or which have been removed from a customer's bill.

(7) The companies billing 900 and 976 charges to customers in Florida and which make an adjustment to a bill based on a customer complaint will not report the customer to a credit bureau or collection agency for non-payment of 900 or 976 charges.

(8) The companies billing 900 and 976 charges to customers in Florida will implement safeguards to prevent the accidental disconnection of phone service for non-payment of 900 or 976 charges.

(9) Companies which bill 900 and 976 charges to consumers in Florida shall not perform billing services for IPs which:

- (a) Fail to provide a preamble to their message which describes the nature of the 900 or 976 service, the cost of the call and provides the customer the option of disconnecting the call without incurring a charge; or
- (b) Fail to effectively advertise the price per call or price per minute and the average number of minutes, whichever is more relevant; or
- (c) Purport to supply products or merchandise that are not delivered or are not deliverable in the message itself; or
- (d) Promote their services through the use of an autodialer; or
- (e) Provide untimely or out-of-date information; or
- (f) Require or request consumers to give a name, address, telephone number, credit card number, or any database marketing information during the call; or
- (g) Refer customers, either directly or indirectly, to any other number for which there is a charge without full and accurate disclosure of the additional cost; or
- (h) Utilize methods or gimmicks, such as unnecessary repetition of information, to prolong the length of the call; or
- (i) Utilize a program which is false, misleading or deceptive in any manner; or
- (j) Target their programs to children without clearly and conspicuously notifying the child of potential cost and the requirement to obtain parental permission before placing or continuing the call; or
- (k) Target interactive calls, such as "chat" lines or "GAB" lines to children; or
- (l) Fail to meet internal standards established by the company which, when violated, would result in the termination of a billing arrangement.

(10) Companies which bill 900 and 976 charges to customers in Florida will establish, and file with the Public Service Commission, standards for IP advertising and program content which, if violated, will require cancellation of a billing arrangement. Such standards must, at a minimum, address the following:

(a) whether the advertisement is false, misleading, deceptive, or could confuse the consumer;

(b) whether the price of the call is as prominent as the 900 or 976 number and is repeated every time the 900 or 976 number is mentioned;

(c) whether the price of the call is clearly and conspicuously visible and audible;

(d) whether the total price of the call (or a projection thereof where the consumer affects the length of the call) is included in the advertisement;

(e) whether any geographic or time constraints apply to the availability of the call;

(f) whether the advertisement contains a representation that the information provided by the 900 or 976 service is free;

(g) whether the advertisement involves a chain referral scheme by inviting the consumer to call a toll-free number which refers him to a 900 or 976 number for the information;

(h) whether the advertisement includes the IP's name, the name under which they do business if different, and the address and telephone number of the offices of the provider;

(i) whether the information includes vulgar language, explicit or implicit descriptions of violence or sexual conduct, adult entertainment or incitement to violence;

(j) whether the information is inflammatory or contains demeaning portrayals of a race, religion, political affiliation, ethnicity, gender or handicap;

(k) whether the information is a "continuity program" that encourages the caller to make increased calls to "earn" increased prizes;

(l) whether information targeted to children is subject to abuses or over use due to the naivete of the child audience and whether it caps possible charges on such services;

(m) whether the information utilizes a game, contest or sweepstakes which violate Florida law;

(n) whether the information solicits charitable or political contributions which violate Florida law.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of the Attorney)
General and the Public Counsel)
to adopt rules governing 900)
services)
_____)

Docket No. 910060-TP
Filed: January 15, 1991

PETITION TO INITIATE RULEMAKING PROCEEDINGS
GOVERNING 900 SERVICES

Pursuant to section 120.54, Florida Statutes (1989) and Rule 25-22.012, Florida Administrative Code, the Attorney General and the Public Counsel petition the Florida Public Service Commission to adopt rules governing consumer protection necessitated by the provision of 900 services in Florida.

1. The Attorney General is the chief state legal officer¹ and has authority to appear in all suits in which the state may be interested². The Public Counsel provides legal representation for the people of the state in proceedings before the Commission and has authority to recommend the commencement of any proceeding before the Commission in the name of the state or its citizens³.

2. Consumers in Florida have been victimized by some providers of 900 service utilizing unfair and deceptive sales

¹Article IV, Section 4, Florida Constitution.

²Section 16.01, Florida Statutes (1989).

³Section 350.0611, Florida Statutes (1989).

DOCUMENT FILED DATE
00445 JAN 15 1991
PSC-RECORDS/REPORTING


techniques. Sometimes prizes may be offered that are never awarded, services are misrepresented, and callers are charged large amounts which first become known to the caller when it appears on the caller's bill from their local telephone company. Consumers are further victimized because billing for the products marketed through 900 numbers is accomplished with phone bills which people think they must pay. These bills fail to inform the consumer of rights to or the mechanism to dispute a 900 charge.

3. Callers must be given adequate information before incurring charges for 900 calls. Reasonable procedures must be available to terminate such calls before incurring charges. A procedure to resolve disputed charges which does not cost the consumer money must be instituted. Callers should be able to block all calls to any 900 service provider from their telephone without incurring a charge, and in no event should a caller's local telephone service be put in jeopardy because of a dispute with a 900 service provider.

4. The proposed rule attached to this petition provides protections for consumers. It requires billing disclosures and inserts in telephone bills, requires adoption of bill adjustment policies and practices required of regulated telephone companies, and requires adoption of standards governing the provision of billing services to 900 service providers by regulated telephone companies in Florida.

5. The undersigned petition the Commission to seize this opportunity to provide protection to the public from sales techniques inherent in the 900 industry and to adopt standards governing the billing of such services by the local exchange and interexchange telephone companies regulated by this Commission.

WHEREFORE, the Attorney General and the Public Counsel urge the Commission to initiate proceedings to adopt the attached rule.



Robert A. Butterworth
Attorney General



Jack Shreve
Public Counsel

Department of Legal Affairs
The Capitol
Tallahassee, FL 32399-1050

(904) 487-1963

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

(904) 488-9330

**CERTIFICATE OF SERVICE
DOCKET NO.**

I HEREBY CERTIFY that a correct copy of the foregoing has been furnished by U.S. Mail or hand-delivery to the following parties on this 15th day of January, 1991.

Harris Anthony
Southern Bell Telephone and
Telegraph Company
c/o Marshall Criser, III
150 S. Monroe St., Suite 400
Tallahassee, FL 32301

David Smith
Division of Legal Services
Fla. Public Service Commission
101 East Gaines Street
Tallahassee, FL 32301

Thomas Parker
GTE Florida Incorporated
P.O. Box 110, MC 7
Tampa, FL 33601

Floyd Self
Messer, Vickers, Caparello,
French, Madsen & Lewis
P.O. Box 1876
Tallahassee, FL 32302

Alan Berg
United Telephone Company
P.O. Box 5000
Altamonte Springs, FL 32716

Joe Gillan
Gillan Associates
P.O. Box 541038
Orlando, FL 32854-1038

Tracy Hatch
Division of Legal Services
Fla. Public Service Commission
101 East Gaines Street
Tallahassee, FL 32301

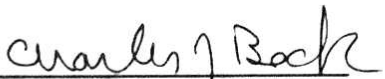
Michael Tye
AT&T Communications
Suite 1410
106 East College Ave.
Tallahassee, FL 32301

Richard Melson
Hopping Boyd Green & Sams
P.O. Box 6526
Tallahassee, FL 32314

Dave Erwin
Mason, Erwin, Horton
1311-A Paul Russell, Suite 101
Tallahassee, FL 32301

Lee Willis
227 South Calhoun Street
P.O. Box 391
Tallahassee, FL 32302

Mickey Henry
MCI
400 Perimeter Center Terrace,
N.E., Suite 400
Atlanta, GA 30346


Charles J. Beck
Assistant Public Counsel

ATTACHMENT

PROPOSED RULE

25-4.118 900 and 976 Service. Each company billing Florida customers for 900 and 976 services must provide, at a minimum, the following consumer protections:

(1) Charges for 900 or 976 calls shall be segregated from charges for regular long distance or local charges on customers phone bills by appearing separately under a heading such as "900 or 976 Service Charges".

(2) The following information shall be clearly and conspicuously disclosed on each page containing 900 and 976 service charges:

(a) That non-payment of 900 or 976 service charges will not jeopardize local or other long distance service; and

(b) That the customer is entitled to dispute any 900 and 976 charge and to seek adjustment for those charges or any portion of the charges; and

(c) That the customer can call either a local or toll-free number for information on how to dispute charges and to obtain the phone number and address of the information provider; and

(d) That complaints against a 900 or 976 information provider can be made in writing to the Public Service Commission's Division of Consumer Affairs; and

(e) That customers can block access to 900 and 976 numbers by requesting such service from the billing entity.

(3) Inserts shall be included in the telephone bills on at least a quarterly basis which conspicuously and in more detail disclose the information contained in paragraphs (2)(a)-(e).

(4) Charges for 900 and 976 calls shall automatically be adjusted upon complaint that:

(a) The customer did not authorize the call or that the call was not made from his phone; or

(b) The customer did not receive a price advertisement, the price of the call was in any way misrepresented to the consumer, or the price advertisement received by the consumer was false, misleading, or deceptive in any manner; or

(c) The customer was misled, deceived, or confused in any way by the 900 or 976 program; or

(d) The customer no longer wishes to make a charitable or political contribution which was pledged or solicited through the use of a 900 or 976 call; or

(e) The 900 or 976 program was incomplete, garbled, or of such quality as to render it inaudible or unintelligible, or the customer was disconnected or cut-off from the service; or

(f) The customer hung up early in the call but was charged the customary or full amount for the 900 or 976 call.

(5) The companies billing 900 and 976 charges to customers in Florida will maintain a record of 900 and 976 numbers (by 900 or 976 number and the name, address and non-900 or non-976 telephone number of the IP) for which adjustments have been requested and on the basis of this report:

(a) Inform the IP's, the IXC's, and the Public Service Commission, Division of Consumer Services, of customer complaints against the IP's; and

(b) Monitor those 900 or 976 programs and/or advertising to determine whether the program is objectionable and whether the company will want to cease billing for that IP in the future.

(6) The companies billing 900 and 976 charges to customers in Florida will not collect or attempt to collect 900 or 976 charges which are disputed or which have been removed from a customer's bill.

(7) The companies billing 900 and 976 charges to customers in Florida and which make an adjustment to a bill based on a customer complaint will not report the customer to a credit bureau or collection agency for non-payment of 900 or 976 charges.

(8) The companies billing 900 and 976 charges to customers in Florida will implement safeguards to prevent the accidental disconnection of phone service for non-payment of 900 or 976 charges.

(9) Companies which bill 900 and 976 charges to consumers in Florida shall not perform billing services for IP's which:

- (a) Fail to provide a preamble to their message which describes the nature of the 900 or 976 service, the cost of the call and provides the customer the option of disconnecting the call without incurring a charge; or
- (b) Fail to effectively advertise the price per call or price per minute and the average number of minutes, whichever is more relevant; or
- (c) Purport to supply products or merchandise that are not delivered or are not deliverable in the message itself; or
- (d) Promote their services through the use of an autodialer; or
- (e) Provide untimely or out-of-date information; or
- (f) Require or request consumers to give a name, address, telephone number, credit card number, or any database marketing information during the call; or
- (g) Refer customers, either directly or indirectly, to any other number for which there is a charge without full and accurate disclosure of the additional cost; or
- (h) Utilize methods or gimmicks, such as unnecessary repetition of information, to prolong the length of the call; or
- (i) Utilize a program which is false, misleading or deceptive in any manner; or
- (j) Target their programs to children without clearly and conspicuously notifying the child of potential cost and the requirement to obtain parental permission before placing or continuing the call; or
- (k) Target interactive calls, such as "chat" lines or "GAB" lines to children; or
- (l) Fail to meet internal standards established by the company which, when violated, would result in the termination of a billing arrangement.

(10) Companies which bill 900 and 976 charges to customers in Florida will establish, and file with the Public Service Commission, standards for IP advertising and program content which, if violated, will require cancellation of a billing arrangement. Such standards must, at a minimum, address the following:

(a) whether the advertisement is false, misleading, deceptive, or could confuse the consumer;

(b) whether the price of the call is as prominent as the 900 or 976 number and is repeated every time the 900 or 976 number is mentioned;

(c) whether the price of the call is clearly and conspicuously visible and audible;

(d) whether the total price of the call (or a projection thereof where the consumer affects the length of the call) is included in the advertisement;

(e) whether any geographic or time constraints apply to the availability of the call;

(f) whether the advertisement contains a representation that the information provided by the 900 or 976 service is free;

(g) whether the advertisement involves a chain referral scheme by inviting the consumer to call a toll-free number which refers him to a 900 or 976 number for the information;

(h) whether the advertisement includes the IP's name, the name under which they do business if different, and the address and telephone number of the offices of the provider;

(i) whether the information includes vulgar language, explicit or implicit descriptions of violence or sexual conduct, adult entertainment or incitement to violence;

(j) whether the information is inflammatory or contains demeaning portrayals of a race, religion, political affiliation, ethnicity, gender or handicap;

(k) whether the information is a "continuity program" that encourages the caller to make increased calls to "earn" increased prizes;

(l) whether information targeted to children is subject to abuses or over use due to the naivete of the child audience and whether it caps possible charges on such services;

(m) whether the information utilizes a game, contest or sweepstakes which violate Florida law;

(n) whether the information solicits charitable or political contributions which violate Florida law.