



Michael W. Tye
Senior Attorney

Suite 1400
106 East College Avenue
Tallahassee, Florida 32301
904 425-6360

April 12, 1991

**ORIGINAL
FILE COPY**

Mr. Steven C. Tribble, Director
Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32399

~~Re: Docket No. 910060-TP~~

Dear Mr. Tribble:

Enclosed for filing in the above referenced docket are one (1) original and fifteen (15) copies of AT&T's Response to Opposition of the Attorney General and the Citizens to AT&T's Request For Confidential Classification. Copies of the foregoing are being served on all parties of record in accordance with the attached Certificate of Service.

Yours truly,

Michael W. Tye
Michael W. Tye

- ACK
- AFA _____ MWT:sdh
- APP 1 Attachments
- CAF _____ cc: J. P. Spooner, Jr.
- CMU Mike Harper
- CTR _____
- EAG _____
- LEG
- LIN 6
- OPC _____
- RCH _____
- SEC 1
- WAS _____
- OTH Kay

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DOCUMENT NUMBER-DATE
03546 APR 12 1991
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of the Attorney) DOCKET NO. 910060-TP
General and the Public Counsel to) SUBMITTED FOR FILING:
adopt rules governing 900 services) APRIL 12, 1991

**AT&T'S RESPONSE TO OPPOSITION
OF THE ATTORNEY GENERAL AND THE CITIZENS
TO AT&T'S REQUEST FOR CONFIDENTIAL CLASSIFICATION**

COMES NOW AT&T Communications of the Southern States, Inc. (hereinafter "AT&T") and, pursuant to Rule 25-22.006, Florida Administrative Code, files this response to the Opposition of the Attorney General and the Citizens to AT&T's Request for Confidential Classification of material submitted to the Staff of the Florida Public Service Commission (hereinafter the "Commission") in the above-referenced docket. AT&T respectfully submits that, despite the opposition of the Attorney General and the Citizens of Florida (hereinafter "Public Counsel"), its Request for Specified Confidential Classification of the names and addresses of its 900 service customers in Florida should be granted. In support thereof, AT&T respectfully shows as follows:

1. On February 19, 1991, AT&T received a letter from Ann Hinson Shelfer, Research Assistant for the Commission Staff, requesting the names and addresses of information providers utilizing AT&T's 900 service. The stated purpose of the inquiry was to permit the Staff to contact various information service providers in conjunction with the preparation of an Economic Impact Statement with respect to the promulgation of 900 service rules by the Commission. Inasmuch as the request was made by letter, and

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inasmuch as said letter did not show copies being furnished to parties of record in this proceeding, AT&T viewed the request as an informal request for information to assist the Staff in compiling information from customers to utilize in preparing for this docket. While AT&T has always considered such customer lists to be proprietary in nature, AT&T, in the spirit of cooperation, responded to Staff's informal request with a list of customers for which AT&T sought Specified Confidential Classification pursuant to Rule 25-22.006, Florida Administrative Code, and Section 364.183(1), Florida Statutes.

2. On February 28, 1991, AT&T submitted its list of 900 service customers in Florida, together with a Request for Specified Confidential Classification of such list. On April 2, 1991, the Attorney General and Public Counsel filed their Opposition to AT&T's request. AT&T submits that the Opposition filed April 2, 1991, fails to state an adequate reason for denial of AT&T's Request for Specified Confidential Classification.

3. Paragraph 3 of the Opposition alleges that the "names" of information service providers are "readily available to anyone willing to call the 900 numbers" by Commission mandate.¹ This assertion is inaccurate. The requirement imposed by the Commission is that the name of the IXC providing the 900 service and the "900 program name" must be reflected on the customer bill.² The "900

¹ Opposition, p. 2.

² Order No. 22741, p. 4; 90 FPSC 3:370, 373.

program name" may or may not identify the identity of AT&T's 900 service customer, which is contained in the list for which AT&T has sought Specified Confidential Classification. Moreover, even if the information provider's name were to appear on the bill, such information would not disclose the business address and telephone number of the customer which would allow AT&T's competitors to target such customer in their 900 service marketing activities.

4. Paragraph 4 of the Opposition alleges that "AT&T's request goes against the thrust of a rule recently proposed by the FCC."³ This contention results from a faulty analogy between a proposed FCC rule which would allow a customer of an information service provider to determine certain information relative to the identity of the information service provider, and the wholesale disclosure of a list of all information services providers served by a particular IXC to individuals who have never used the services of any of those information services providers. Regardless of the outcome of the FCC's recently-initiated rulemaking proceeding, it simply does not follow that AT&T's list of 900 service customers is not proprietary confidential business information.

5. Similarly, paragraph 5 of the Opposition is based on a faulty analogy between 976 service and 900 service. The Opposition reasons that since the local exchange companies providing 976 service have not objected to disclosure of the identities of their 976 service customers, IXCs should not object to the disclosure of

³ Opposition, p. 2.

their 900 service customers. The fact is that 976 service is provided in the context of the local exchange monopoly defined in Section 364.335(3), Florida Statutes. The local exchange companies simply have no competitors for such service. 900 Service, on the other hand, is provided in the interexchange market which is intensively competitive. Consequently, to equate the proprietary nature of a local exchange company's customer list with that of an IXC is simply erroneous.

6. The overriding problem with the Opposition is that it fails to recognize the tests which the Florida Legislature has set forth for the protection of "proprietary confidential business information." That term clearly applies to information that:

" . . . is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public. . . ." ⁴


The Opposition fails to substantiate its claims that AT&T's customer list does not meet these tests. Moreover, the Opposition fails to recognize that the information submitted constitutes more than the mere name of a single information service provider. It is a list of all of AT&T's 900 service customers in Florida, together with their business addresses and telephone numbers. An AT&T competitor could quite easily take such a list and target

⁴ Section 364.183(3), Florida Statutes.

AT&T's customers for competitive sales activities to the economic detriment of AT&T. Hence, the list clearly warrants protection under the statutory provisions which protect "trade secrets" and "(i) nformation relating to competitive interests, the disclosure of which would impair the competitive business of the providers of information."⁵ Consequently, AT&T's Request for Specified Confidential Classification of its customer list should be granted.

WHEREFORE, AT&T Communications of the Southern States, Inc. respectfully requests that the relief requested in the Opposition filed by the Attorney General and Public Counsel on April 2, 1991 be denied, and that AT&T's Request for Specified Confidential Classification submitted on February 28, 1991 be granted.

Respectfully submitted,


Michael W. Tye
106 East College Avenue
Suite 1410
Tallahassee, Florida 32301
(904) 425-6360

ATTORNEY FOR AT&T COMMUNICATIONS
OF THE SOUTHERN STATES, INC.

⁵ Section 364.183(3)(a) & (e), Florida Statutes.

CERTIFICATE OF SERVICE

DOCKET NO. 910060-TP

I HEREBY CERTIFY that a correct copy of the foregoing has been furnished by U. S. Mail to the following parties on this 12th day of April, 1991:

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

Richard Bellak
Division of Legal Services
Fla. Public Service Commission
101 East Gaines Street
Tallahassee, FL 32399-0863

Thomas Parker
GTE Florida Inc.
P. O. Box 110, MC7
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

Robert A. Butterworth
Attorney General
State of Florida
Department of Legal Affairs
The Capitol
Tallahassee, FL 32399-1050

Craig Dingwall
US Sprint Communications
2002 Edmund Halley Drive
Reston, VA 22091

Michael J. Henry
MCI Telecommunications
MCI Center
Three Ravinia Drive
Atlanta, GA 30346-2102

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

David Erwin
Mason, Erwin & Horton
1311-A Paul Russell Road
Suite 101
Tallahassee, FL 32301

Lee Willis
Ausley, McMullen, McGehee
Carothers & Proctor
P. O. Box 391
Tallahassee, FL 32302


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

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Nycom Information Services
Attn: Jodi DelVecchio
5 High Ridge Park
Stamford, CT 06905

D. Bruce May
Holland & Knight
P. O. Drawer 810
Tallahassee, FL 32302

Andrew D. Lipman
Jean L. Kiddoo
Robert G. Berger
Swidler & Berlin
3000 K Street, N.W.
Washington, D.C. 20007


Michael W. Tye