

ORIGINAL



Marsha E. Rule  
Attorney

Suite 700  
101 N. Monroe St.  
Tallahassee, FL 32301  
904 425-6365  
FAX: 904 425-6361

October 2, 1997

Mrs. Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Dear Mrs. Bayo:

Re: DOCKET NO. 922003-77

You will find enclosed an original and fifteen (15) copies of AT&T's Motion for Clarification and Modification of Procedural Dates for filing in the above-referenced docket.

Copies of the foregoing are being served on the parties listed in the attached certificate of service.

- ACK \_\_\_\_\_
- AFA \_\_\_\_\_
- AFI \_\_\_\_\_
- CAF \_\_\_\_\_
- CEP \_\_\_\_\_
- C \_\_\_\_\_
- CTA \_\_\_\_\_

Yours truly,

*Marsha E. Rule*  
Marsha E. Rule

1 mr  
5 Enclosures

RECEIVED & FILED

DIVISION OF RECORDS

DOCUMENT NUMBER-DATE  
TUT23 OCT-26  
FPSC-RECORDS/REPORTING

**CERTIFICATE OF SERVICE**

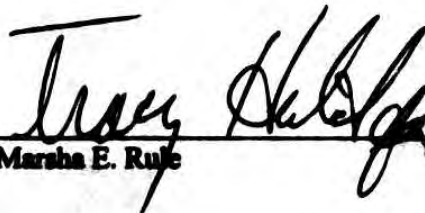
**Docket No. 970882-TI**

**I HEREBY CERTIFY that a true copy of the foregoing has been  
furnished by U.S. Mail this 2<sup>nd</sup> day of October, 1997, to the following parties:**

**Michael A. Gross  
Assistant Attorney General  
Department of Legal Affairs  
PL-01, The Capitol  
Tallahassee, FL 32399-1050**

**Charles J. Beck  
Deputy Public Counsel  
Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, FL 32399-1400**

**Diana Caldwell  
Division of Appeals  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850**

  
**Marsha E. Rule**

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Proposed Rule 25-24.845, F.A.C. )  
Customer Relations; Rules Incorporated, )  
and proposed amendments to Rules )  
25-4.003, F.A.C., Definitions; 25-4.110, )  
F.A.C., Customer Billing; 25-4.118, F.A.C., )  
Interexchange Carrier Selection; 25-24.490, )  
F.A.C., Customer Relations; Rules )  
Incorporated. )

Docket No. 970882-TI

Filed: 10-02-97

**AT&T's MOTION FOR CLARIFICATION  
AND MODIFICATION OF PROCEDURAL DATES**

AT&T Communications of the Southern States, Inc. ("AT&T") hereby files this motion pursuant to Rule 25-22.037, Florida Administrative Code, and requests the Commission to clarify and modify the procedures set forth in Order No. PSC-97-1071-PCO-TI. For cause, AT&T shows as follows:

1. By the terms of Order No. PSC-97-1071-PCO-TI (the "procedural order"), this docket incorporates both a rulemaking proceeding and a factual investigation to assess the scope and extent of "slamming" in Florida and to determine appropriate consumer protection measures. Thus, the Commission will engage in fact-finding under Section 120.57, Florida Statutes, and rulemaking under Section 120.54, Florida Statutes.

2. A rule development workshop was held on July 23, 1997, and further public rule development hearings have been set throughout the state, to conclude in November, 1997. A rulemaking hearing before the Commission is scheduled on February 6, 1998.

DOCUMENT NUMBER-DATE  
10123 OCT-25  
FPSC-RECORDS/REPORTING

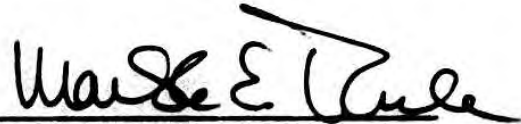
3. AT&T requests clarification and, if necessary, modification of several provisions of the procedural order. First, AT&T requests that the Commission eliminate the party designations of "Utility" and "Intervenor" used in the procedural order, and require all parties - whether intervenor or petitioner - to file initial and rebuttal testimony at the same time. The distinction of "utility" and "intervenor" is not a useful one for purposes of rule development or investigation, and tends to obscure the fact that no party bears either the burden of proof or the burden of going forward with evidence in this proceeding.

4. Next, AT&T requests clarification of the nature and purpose of the Commission's hearing on February 6, 1998. It is not clear from the procedural order whether the hearing is intended to be a formal rulemaking hearing under Section 120.54(3)(c), Florida Statutes, or to be preliminary to such a hearing. If the hearing is preliminary to a formal rule proposal under Section 120.54(3)(a), the procedural order should be modified to require all parties to file testimony at the same time. Currently, parties are required to file testimony beginning in October, 1997. AT&T requests that testimony due dates be modified, with testimony due after the conclusion of the statewide rule development hearings, so that parties may address in their testimony issues raised during the hearings. The procedural schedule proposed by BellSouth in its September 26, 1997 Motion to Modify Procedural Dates is acceptable (initial testimony November 24, 1997, Staff testimony approximately 3 weeks later, and rebuttal testimony on January 5, 1998).

5. If, on the other hand, the hearing is intended to be a formal rulemaking hearing under Section 120.54(3)(a), Florida Statutes, AT&T requests that the procedural order be further modified as follows: at the conclusion of all rule development hearings, staff should circulate a proposed draft rule or rules, to which any interested person could respond. Thereafter, staff would recommend rules to be proposed, which the Commission would consider at an agenda conference. The rules formally proposed by the Commission would then be noticed pursuant to Section 120.54(3)(a), and a formal rulemaking proceeding would be held. Parties to the proceeding would file initial testimony on a date set by the Commission, followed by simultaneous responsive testimony. After the hearing, the Commission would make such changes to the proposed rules as are deemed appropriate and supported by the hearing record, followed by appropriate notice under Section 120.54(d), Florida Statutes. This procedure would ensure not only that the Commission need conduct only one hearing on this matter, but also would allow staff and parties to evaluate the information developed in discovery and public hearings prior to formulating a proposed rule and prior to filing testimony.

Wherefore, AT&T respectfully requests that the Commission clarify and modify  
Order No. PSC-97-1071-PCO-TI as set forth herein.

Respectfully submitted;



**Marsha E. Rule**  
101 North Monroe  
Suite 700  
Tallahassee, Florida 32301  
(904) 425-6365 (phone)  
(904) 425-6361 (fax)

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