

ORIGINAL



JACK SHREVE
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STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
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October 31, 1997

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

971133-TI

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of the Complaint Against AT&T Communications of the Southern States, Inc., by the Attorney General and the Citizens of Florida.

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

- ACK
- AFA
- APP
- CAF
- CMU
- CTR
- EAF
- LE CJB:bsr
- LIP
- OT Enclosures
- PC
- SE
- WF
- OTH

Sincerely,

Charles J. Beck
Deputy Public Counsel

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

11242 OCT 31 5

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Robert A. Butterworth,)	
Attorney General, and the Citizens of the)	Docket
State of Florida, by and through Jack Shreve,)	
Public Counsel, against AT&T)	Filed: October 31, 1997
Communications of the South States, Inc.)	
for slamming Robert Flint in violation of)	
Rule 25-4.118, F.A.C.)	

COMPLAINT AGAINST AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC., BY THE ATTORNEY GENERAL AND THE CITIZENS OF FLORIDA

Pursuant to section 25-22.036, Florida Administrative Code, Robert A. Butterworth, Attorney General ("Attorney General"), and the Citizens of the State of Florida, by and through Jack Shreve, Public Counsel ("Citizens"), file this complaint against AT&T Communications of the Southern States, Inc., for violation of Rule 25-4 118, Florida Administrative Code. In support of this complaint, the Attorney General and the Citizens submit the following:

1. The Attorney General is the chief legal officer of the state, pursuant to Art. IV, Sec. 4, Fla. Const. The Attorney General's principle place of business and mailing address is as follows:

Robert A. Butterworth, Attorney General
Michael A. Gross, Assistant Attorney General
Office of the Attorney General
PL-01, The Capitol
Tallahassee, FL 32399-1050

2. Section 350.0611, Florida Statutes (1995), authorizes the Public Counsel to appear in the name of the state or its citizens in any proceeding or action before the Commission and to urge therein any position which he or she deems to be in the public interest. The Public Counsel's principle place of business and mailing address is as follows:

Jack Shreve, Public Counsel
Charles J. Beck, Deputy Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, Fl. 32399-1400

3. AT&T Communications of the Southern States, Inc. is an interexchange carrier certificated by the Florida Public Service Commission. AT&T Communications of the Southern States, Inc. holds certificate of convenience no. 69 issued by the Florida Public Service Commission.

4. During or about June of 1997, AT&T Communications of the Southern States, Inc., through its employees and/or agents, changed the primary interexchange carrier of Mr. Robert Flint of 3424 Old St. Augustine Road, Tallahassee, Florida from Wiltel's Lifeline Network to AT&T Communications of the Southern States, Inc., without the authorization or consent of Mr. Flint, in violation of Rule 25-4.118(1), Florida Administrative Code.

5. A copy of Mr. Flint's sworn testimony at the Commission's rule development workshop in Tallahassee, Florida, held on Monday, October 20, 1997, is attached to this complaint as Exhibit 1.

6. The actions of AT&T Communications of the Southern States, Inc., adversely affect the substantial interests of the state of Florida, the Citizens of Florida, and Mr. Flint by changing his primary interexchange carrier without authorization. Complainants are unaware of any disputed issues of material fact.

7. Pursuant to Section 364.285(1), Florida Statutes (1995), the Commission should impose a penalty of \$25,000 on AT&T Communications of the Southern States, Inc., for violation of Rule 25-4.118(1), Florida Administrative Code.

WHEREFORE, the Attorney General and the Citizens request the Commission to impose a penalty of \$25,000 on AT&T Communications of the Southern States, Inc. for violation of Rule 25-4.118(1), Florida Administrative Code.

Respectfully submitted,

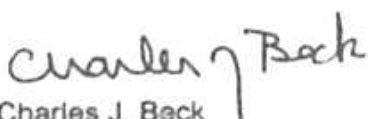
ROBERT A. BUTTERWORTH
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CERTIFICATE OF SERVICE

Docket No. 970882-TL

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U S Mail
or hand-delivery to the following parties on this 31st day of October, 1997:

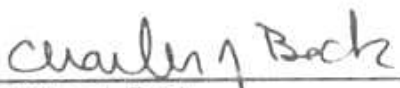
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Mr. Robert Flint
3424 Old St. Augustine Rd
Tallahassee, FL 32301



Charles J. Beck

1 the majority of this country. And the Public Service
2 Commission, I think, is obligated to look and take
3 lessons, learn from what has happened in the telephone
4 business.

5 Thank you.

6 CHAIRMAN JOHNSON: Thank you. Any other
7 questions?

8 MR. SHEREVE: Thank you, sir.

9 CHAIRMAN JOHNSON: Mr. Wilson, we'll have a
10 Staff person there to meet you. Thank you, sir.

11 MR. SHEREVE: Mr. Robert Flint.

12 - - - - -

13 ROBERT C. FLINT

14 appeared as a witness and, swearing to tell the truth,
15 testified as follows:

16 DIRECT STATEMENT

17 WITNESS FLINT: Greetings. Name is Robert
18 Flint. I live at 3424 Old St. Augustine Road,
19 Tallahassee, Florida.

20 In around June my wife said that there was a
21 phone call asking why we had switched phone services.
22 And I said, "Well, it must have been a mistake because
23 we have not switched." We use WilTel, which is
24 Lifeline Network, and they donate part of their fee to
25 charitable enterprises, and I had planned to stay with

1 them.

2 However, I got a July phone bill from
3 Sprint-Centel which included \$156.78. In the fine
4 print it said, "You're long distance carrier is AT&T."
5 I said, "No, it isn't." So I called them up.
6 Sprint-Centel said they would switch them back, which
7 they did. And I said, "Well, you know, I don't like
8 paying this. I'll be happy to pay it if you can tell
9 me that AT&T is going to pay the phone company that I
10 contracted with." And they said, "Well, you have to
11 pay it or they -- I said, "What happens if I don't pay
12 it?" They say they'll shut off the phone. So I paid
13 it with protest. And I filed a complaint with Bob
14 Crawford, the Department of Agriculture.

15 **COMMISSIONER GARCIA:** Let me ask you before
16 you get too far. You filed a complaint with the
17 Secretary Crawford's department. They actually opened
18 a file with you, and they did the complaint or did
19 they refer you to the PSC?

20 **WITNESS FLINT:** They apparently referred me
21 to you because this was a June letter from the
22 Department of Agriculture, Bob Crawford, and I got a
23 letter from the PSC, a Douglas Martin, on July 7th.
24 And nothing else until I got the notice of this
25 hearing from the PSC.

1 After I did file that complaint, I did get a
2 phone call from AT&T who said that they didn't know
3 how it happened, et cetera, and apologized and said
4 they'd try to clear it up. Well, they sent me a \$5
5 certificate. Well, that didn't cover the \$156.78.

6 **COMMISSIONER GARCIA:** Let me ask you before
7 you move on from there. The \$150 was much more
8 expensive than you were normally used to paying for or
9 you simply wanted to be able to credit to the
10 charities that Lifeline network typically --

11 **WITNESS FLINT:** My request was that I'd be
12 happy to -- well, I did pay it under protest which was
13 a mistake when I thought about it, and since they are
14 not going to send that money from AT&T to the people
15 they contracted with --

16 **COMMISSIONER GARCIA:** Right.

17 **WITNESS FLINT:** -- then I said I wouldn't
18 pay it. And I didn't, on the last bill, and so I'm
19 now dunned again for -- I just left that 156.78 out of
20 the last bill. And it's on the current bill that I
21 got.

22 And then, postmarked August 11th from a
23 Chantilly, Virginia, I get a letter from MCI welcoming
24 me to their long distance service. And I think this
25 is ridiculous. However, the current bill did not show

1 that they had switched or slammed me again, so I'm
2 still on the one that I asked for. The gentlemen over
3 there, I thought I heard him say that you go up to 90
4 days if you had been slammed, you don't have to pay
5 that. How do you work that?

6 MR. MOSES: That's under the proposed rules,
7 that if you were slammed and you were billed for
8 services, then the unauthorized carrier would not be
9 able to collect that from you. That's the total
10 charge, not just rerated.

11 COMMISSIONER GARCIA: Let me make sure you
12 understand that's a proposed rule; you can't put that
13 into effect through self-help.

14 WITNESS FLINT: Well, I'm going to continue
15 to withhold that amount.

16 COMMISSIONER GARCIA: Can I ask you a favor?

17 WITNESS FLINT: I'm going to write AT&T and
18 say, "If you want to pay that money to the network I
19 contracted with, that's fine."

20 COMMISSIONER GARCIA: Just in case, I'd
21 appreciate it if you could meet with our Staff so that
22 you don't get yourself into a worse tangle with your
23 local company. If you could talk to our Staff before
24 you leave so you can open a file with us so they can
25 help you. I know you've already contacted them, but

1 I'd like you to contact them directly and make sure
2 that we've got a record of this. If you open a file
3 with us, your local phone company will not bill you
4 for the amount that is in dispute, and you don't have
5 to pay them. Okay?

6 WITNESS FLINT: Well, they didn't --

7 COMMISSIONER GARCIA: At least not until the
8 dispute is resolved.

9 WITNESS FLINT: They didn't shut off the
10 phone, but after I paid -- didn't pay the \$156.74, or
11 whatever, the only balance was \$10.74 that I sent in
12 for this last bill. But --

13 MR. MOSES: Just to clarify what the current
14 rules would require is they would require the
15 unauthorized carrier to rerate your service to the
16 same rates as your previous carrier. So if you were
17 with WilTel, AT&T would be required to rerate your
18 calls so you wouldn't be charged any more than what
19 you were charged before. That's the current rules.

20 WITNESS FLINT: I don't find that
21 acceptable. What I would find acceptable is if AT&T
22 would send the money that I've paid or that they
23 received, that they send that to the carrier with
24 which I contracted for the service.

25 COMMISSIONER DEASON: Let me ask, is there

1 an AT&T representative in the audience? I guess
2 there's not. They don't think these hearings are
3 important. All right.

4 **WITNESS FLINT:** Who do you wish me to make
5 contact with?

6 **CHAIRMAN JOHNSON:** Yes, sir. The gentlemen
7 in the blue. Thank you, sir.

8 **MR. SHEREVE:** Thank you, sir.

9 **Mr. Ochshorn.**

10 - - - - -

11 **BENJAMIN OCHSHORN**
12 appeared as a witness and, swearing to tell the truth,
13 testified as follows:

14 **DIRECT STATEMENT**

15 **WITNESS OCHSHORN:** I'm an attorney at
16 Florida Legal Services, and I'm just here to help out,
17 if I can, a bit. I'm starting to do consumer law now
18 and this is in the form of a public comment. I'm
19 leaving the heavy lifting to Public Counsel and the
20 Attorney General. They get to do the work in this
21 case.

22 I'd like to commend the Commission for, you
23 know, the attention you're giving to this issue. What
24 I'm learning about it is that it seems kind of like
25 the Wild West. I mean, in our latest local phone