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December 8, 1997

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

Re: Docket No. 971433-T1

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copy of the Notice of Service of the Response by the Attorney General and the Citizens of Florida to AT&T's Motion to Consolidate.

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

Sincerely,

Charles J. Beck
Deputy Public Counsel

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1 CJB bsr
2 Enclosures

RECEIVED & FILED
[Signature]
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

12522 DEC-86

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICES COMMISSION

In re: Complaint of Robert A.)	
Butterworth, Attorney General, and)	
the Citizens of the State of Florida,)	Docket 971433-TI
by and through Jack Shreve, Public)	
Counsel, against AT&T Communications))	Filed December 8, 1997
of the Southern States, Inc., for)	
Slamming Robert Flint in violation of)	
of Rule 25-4.118, F.A.C.)	

**RESPONSE BY THE ATTORNEY GENERAL AND THE CITIZENS OF FLORIDA TO
AT&T'S MOTION TO DISMISS**

Robert A. Butterworth, Attorney General ("Attorney General") and the Citizens of Florida ("Citizens"), by and through Jack Shreve, Public Counsel, submit this response to the motion to dismiss filed by AT&T Communications of the Southern States, Inc. ("AT&T") on November 24, 1997, and state the following.

1. AT&T's motion argues that the complaint filed by the Attorney General and the Citizens of Florida should be construed as a "recommendation" under section 350.0611, Florida Statutes, and that the Commission's show cause proceeding against AT&T, opened subsequent to the filing of the complaint by the Attorney General and the Citizens, should be construed as acceptance of that recommendation. Since, according to AT&T, the show cause proceeding will include the complaint of slamming David Howe, the separate complaint by the Attorney General and the Citizens should be dismissed.

2. AT&T does not provide any source or authority for what it believes to be the

scope of the Commission's show cause proceeding against AT&T. However, if AT&T is correct about the scope of the Commission's show cause proceeding, at most it has shown a reason to consolidate the dockets.

3. Section 350.0611, Florida Statutes, provides that it is the duty of the Public Counsel to provide legal representation for the people of the state in proceedings before the Commission. It also provides that the Public Counsel shall have such powers as are necessary to carry out the duties of the office. The Attorney General has broad statutory authority to prosecute and appear in suits in which the state is a party or is otherwise interested. Section 16.01(4),(5), and (6), Florida Statutes. Where the public interest is involved, the Attorney General may not only initiate litigation, but also intervene in pending litigation. *State ex. rel. Shevin v. Yarborough*, 257 So.2d 891,894 (Fla. 1972). The Attorney General is granted wide discretion in determining what particular matters involve the public interest. *State ex. rel. Shevin v. Exxon Corp.*, 526 F.2d 266, 268-69 (5th Cir. 1976). Accordingly, his conclusion that a particular matter involves the public interest is presumed to be correct. *State ex. rel. Shevin v. Yarborough*, at 895; see also *Lawyer v. Dep't. of Justice*, 65 U.S.L.W. 4629, 4632 n4 (U.S. June 25, 1997)(No. 95-2024)(citing *State ex. rel. Shevin v. Yarborough*, at 894-96, and *Ervin v. Collins*, 85 So.2d 852, 854 (Fla. 1956 (en banc.)).

4. The complaint filed by the Attorney General and the Citizens is exactly what it purports to be: a complaint filed pursuant to rule 25-22.036, F.A.C. A complaint is

appropriate when a person complains of an act or omission by a person subject to Commission jurisdiction which affects the complainant's substantial interests and which is in violation of a statute enforced by the Commission, or of any Commission rule or order Rule 25-22.036(5), F.A.C. All of these matters are alleged in the complaint.

5. While AT&T failed to provide a basis to dismiss the complaint, the Attorney General do not object to consolidation of the complaint with the Commission's show cause proceeding, as requested by AT&T.

Respectfully submitted,

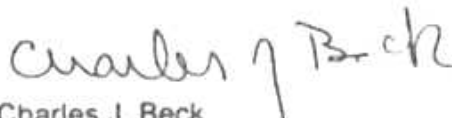
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CERTIFICATE OF SERVICE

Docket No. 971433-TL

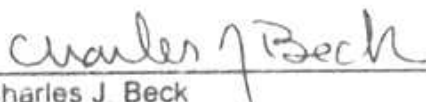
I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail or hand-delivery to the following parties on this 8th day of December, 1997.

Michael A. Gross
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