

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings )  
against AT&T of the Southern States, Inc. )  
and d/b/a/ Connect 'N Save for violation )  
of Rule 25-4.118, F.A.C., Interexchange )  
Carrier Selection )  
\_\_\_\_\_ )

Docket No. 971492-TI  
Filed: February 4, 1998

AT&T's RESPONSE IN OPPOSITION  
TO FIRST MOTION TO COMPEL  
FILED BY THE ATTORNEY GENERAL AND CITIZENS OF FLORIDA  
AND  
REQUEST FOR PROTECTIVE ORDER

Comes now AT&T Communications of the Southern States, Inc., (AT&T) and files this Response in Opposition to the First Motion to Compel Against AT&T by the Attorney General and the Citizens of Florida. For cause, AT&T shows as follows:

1. On December 16, 1997, the Office of the Public Counsel (OPC), on behalf

of the Attorney General (AG) and Citizens of Florida, served upon AT&T its First Set of Requests for Production of Documents (Nos. 1-13) and First Set of Interrogatories in this docket.

2. AT&T responded to such interrogatories and document requests, and in

connection with such responses, objected to certain instructions, definitions, and specific interrogatories or document requests. Public Counsel's Motion to Compel is based those objections. AT&T will respond to each ground for the Motion to Compel.

3. Definitions of "you", "your", "company" and "AT&T" and instruction in

interrogatories and document requests that "unless otherwise stated, all document requests relate to your experience nationwide with slamming – not just in Florida":

ACK  
AFA  
APP  
CAF 1  
CMU 2  
CTR  
EAC  
LES  
LH  
LJ  
LW  
RUC  
SEC 1  
WAS  
OTH

RECEIVED & FILED

FPSC BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

01819 FEB-4 98

FPSC-RECORDS/REPORTING

AT&T has objected to Public Counsel's attempt to expand the scope of this proceeding far beyond AT&T's regulated Florida intrastate operations by treating AT&T Communications of the Southern States, Inc. and AT&T Corporation as one and the same. AT&T Communications of the Southern States, Inc., is the carrier certificated and regulated by the Florida Public Service Commission. Attempts to reach farther than the regulated Florida operations carried out pursuant to such certification are simply beyond the scope of the Commission's jurisdiction. By this objection, however, AT&T does not mean to suggest that the Commission or Public Counsel may not inquire into those policies, practices and procedures of AT&T Corporation that dictate or are directly connected with the regulated operations; indeed, AT&T has responded to interrogatories and produced voluminous documentation from AT&T Corporation. Nor has AT&T objected to producing documents or information obtained from entities acting on its behalf in connection regulated Florida operations, but has instead requested and produced such documents and information. Rather, AT&T objects to responding to interrogatories and producing documents that bear no relationship to Florida regulated intrastate operations. Such material is neither relevant nor material, is not reasonably calculated to lead to the discovery of admissible evidence, and further would be burdensome to develop.

4. Public Counsel argues that information from other jurisdictions is probative as to whether AT&T acted "knowingly" or "willfully" in processing certain PIC changes. In response, AT&T adopts and incorporates herein by reference the response of LCI International Telecom Corp. ("LCI") to the First Motion to Compel by the Attorney General and Citizens filed on February 4, 1998 in Docket No. 971487-TI, attached

hereto. As shown therein, Public Counsel's interpretation and application of this terms is not only erroneous and overreaching, but the information sought is irrelevant. In the Motion to Compel, Public Counsel argues nationwide slamming information could show that AT&T "hs chosen to ignore available practices which would reduce or eliminate slamming" and that "such information would be highly probative" with regard to whether AT&T acted "knowingly" or "willfully". The possible existence of such "available practices" has no relevance whatsoever to a proceeding designed to determine whether AT&T complied with the Commission's existing Rule 25-4.118, F.A.C. This rule does not require companies to pursue all possible means of reducing slamming complaints; rather, it specifies that a company must take one of four listed actions in order to proceed with a PIC change. AT&T's failure to take steps not required by rule cannot possibly prove or in any way be indicative of a rule violation.

5. Information protected by privilege:

AT&T objected to production of documents and interrogatories to the extent they call for privileged information. The undersigned attorney attests that the only documents and information withheld by virtue of this objection are exempt pursuant to the attorney-client privilege or constitute attorney work product. AT&T has not identified such documents and information, and submits that the Commission has never required attorneys to itemize their correspondence with their clients nor to identify their work product. Should the undersigned identify any other documents or information that it believes is exempt from discovery pursuant to any other privilege, it will identify such documents or information as requested.

6. With regard to the allegations and argument in paragraphs 13, 14, 15, 16, 17, 18, and 19 of Public Counsel's motion, AT&T has withheld no documents or information pursuant to these objections (except insofar as such documents and information relate to non-jurisdictional operations) and therefore believes Public Counsel's motion to be moot with regard to these issues.

7. Documents discussing or identifying discipline of employees of AT&T and contractors:

AT&T has produced such documents, but has redacted the names of any individuals who may have been the subject of planned or actual discipline. Such information is likely to subject AT&T to litigation regarding invasion of privacy, potential defamation actions, and possible claims under various collective bargaining agreements. It is unduly burdensome to require AT&T to subject itself to this liability, particularly when the issue is whether AT&T has complied with the Commission's slamming rules, not whether it disciplined particular employees.

WHEREFORE, AT&T respectfully requests the Commission to deny Public Counsel's Motion to Compel and enter a protective order ruling that AT&T need not respond to the document requests and interrogatories as outlined herein.

Respectfully submitted this 4th day of February, 1998.

A handwritten signature in cursive script, appearing to read "M Rule", written over a horizontal line.

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**ATTORNEY FOR AT&T  
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been furnished by U.S.

mail this 2nd day February, 1998, to:

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Marsha E. Rule