

M E M O R A N D U M

March 2, 1999

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (BEDELL) **CB**

RE: DOCKET NO. 971492-TI - In re: Initiation of show cause proceedings against AT&T Communications 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.

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Attached is a **THREE-PAGE SETTLEMENT LETTER DATED 12/21/98 from AT&T** to be filed in the above-referenced docket.

CB/slh  
Attachment

DOCUMENT NUMBER-DATE

**02664 MAR-28**

FPSO-RECORDS/REPORTING



Kenneth P. McNeely  
Law & Government Affairs  
Vice President - Florida

Suite 700  
101 N. Monroe St.  
Tallahassee, FL 32301  
850 425-6360  
FAX: 850 425-6361

December 21, 1998

**Via Hand Delivery**

Walter G. D'Haeseleer  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

Jack Shreve  
111 West Madison Street  
Room 812  
Tallahassee, Florida 32399-1400

**Re: *Docket No. 971492-TI Initiation of Show Cause Proceedings  
against AT&T Communications of the Southern States, Inc. for  
Violation of Rule 25-4.118, F.A.C.***

Gentlemen,

I want to thank both of you for allowing me time to share with you my thoughts on resolving this matter. The progress we have made on this important issue is very positive. I hope that you have concluded from our meetings that AT&T's commitment to address its slamming problem is indeed genuine. I have a meeting scheduled in early January to meet with Attorney General Butterworth on this matter. Though I have not had a meeting yet with Mr. Butterworth, I understand his office shares many of the same concerns as your offices.

The primary concern raised by your offices was that AT&T sought to avoid its responsibility for slamming by asserting AT&T could not be held legally liable for illegal forgeries occasioned by its agents. This asserted affirmative defense is rooted in common law and long upheld by the courts. Indeed, several commissioners have expressed their own reluctance to hold principals liable for the illegal acts of their agent. AT&T raised the defense only to preserve its right to all legally available defenses. Indeed, AT&T has vigorously pursued its agents who

have acted illegally, terminating such relationships and pursuing legal action against them. However, AT&T appreciates the Staff's conclusion that the consumer should not be left without a remedy because the slam was caused by an unscrupulous agent and not the principal itself. Accordingly, for purposes of settlement of this docket, AT&T will agree to accept responsibility for the actions of its agents which result in a slam to a Florida consumer. Understandably, this concession comes at a significant cost to AT&T.

AT&T would further propose the following action in full satisfaction of all alleged slamming claims which were the subject of the above show cause proceedings or which facts occurred prior to the date of this settlement proposal:

1. Discipline employees found to have violated AT&T's Zero Tolerance Policy up to and including termination.
2. Terminate relationships with agents that do not comply with AT&T's Zero Tolerance Policy.
3. Agree to accept responsibility for slamming infractions that may have been occasioned by the acts of an unscrupulous agent. Specifically, AT&T agrees not to assert as an affirmative defense that it is not responsible for an agent acting outside the scope of its employment with regard to an alleged slam.
4. Agree to verify 100% of all Letter of Authorizations ("LOAs") received during the course of its face to face consumer marketing efforts for a period of six months after the date an Order in this docket has been signed.
5. Provide a "warm transfer" of slamming calls to the Commission Consumer Affairs offices directly to the new AT&T Slamming Resolution Centers. These Centers now serve as a dedicated resource to resolve slamming inquires and to collect data to allow AT&T to monitor complaint trends and resolve them in furtherance of AT&T's Zero Tolerance Policy. AT&T has spent over \$100 Million over the last 18 months to make these Centers operational.
6. Continue deployment of "AT&T Branding/Time At Destination" offering on 1+ calls. This service brands 1+ calls with the familiar AT&T "sparkle tone", alerting callers that AT&T is the carrier for the call. Consumers who have not presubscribed to AT&T will know immediately that an unauthorized switch has occurred and those presubscribed to AT&T who do not hear the tone will know that they have been switched away from AT&T.
7. Offer the sum of \$500,000 in settlement. This amount will consist of a \$300,000 voluntary payment to the State of Florida general treasury fund and \$200,000 to be spent by AT&T on Florida-specific consumer education regarding slamming. The slamming education campaign will include print media to educate

Florida consumers on slamming prevention and alert them of AT&T's new Slamming Resolution Centers.

I hope that you will consider this offer favorably at your earliest convenience. As you are aware, AT&T's counsel filed a Preliminary Response to Order to Show Cause, Motion for Extension of Time and Petition for Formal Administrative Hearing on November 16, 1998. I understand that Staff is prepared to recommend a ruling on that Petition. I truly hope that this settlement proposal is satisfactory to both your offices. It clearly demonstrates AT&T's willingness to accept responsibility and to take a leadership role in slamming prevention. I am confident other carriers will follow suit. In any event, to avoid undue procedural delay, I would appreciate it if you would act on AT&T's Response filed on November 16<sup>th</sup> and recommend transfer of the case to the Division of Administrative Hearing.

I look forward to hearing from you on this matter.

Best regards,

Very truly yours,

  
Kenneth P. McNeely