

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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.

DOCKET NO. 971492-TI
ORDER NO. PSC-99-0433-AS-TI
ISSUED: March 3, 1999

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JULIA L. JOHNSON
E. LEON JACOBS, JR.

ORDER APPROVING SETTLEMENT

AT&T Communications of the Southern States, Inc. and d/b/a Connect 'N Save (AT&T), is an intrastate interexchange carrier and provides long distance services under Certificate No. 69. By Order No. PSC-98-1461-SC-TI, issued October 27, 1998, this Commission ordered AT&T to show cause in writing why it should not have certificate number 69 canceled or be fined \$5,490,000 for 183 apparent violations of Rule 25-4.118, Florida Administrative Code.

On December 21, 1998, AT&T submitted its offer to settle, which is attached and incorporated herein as Attachment A. The offer states as follows:

1. AT&T will accept responsibility for the actions of its agents which result in a slam to a Florida consumer. 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.
2. AT&T will discipline employees found to have violated AT&T's Zero Tolerance Policy up to and including termination.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

3. AT&T will terminate relationships with agents that do not comply with AT&T's Zero Tolerance Policy.
4. AT&T will verify 100% of all Letters of Authorization (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. AT&T will provide a "warm transfer" of slamming calls from the Commission Consumer Affairs offices directly to the new AT&T Slamming Resolution Centers.
6. AT&T will continue deployment of "AT&T Branding/Time At Destination" offering on 1+ calls.
7. AT&T will make a settlement proposal of \$500,000. This amount consists of \$300,000 to the general revenue fund of the State of Florida and \$200,000 to be spent by AT&T on Florida-specific consumer education regarding slamming.

In addition, AT&T has verbally agreed to submit a monthly report to staff detailing the expenditure of the \$200,000 and describing the type of consumer education it would undertake. AT&T also agrees to verbally verify the face to face LOAs received over the six-month period, and continue the AT&T branding of 1+ calls indefinitely.

We support AT&T's proposal to accept responsibility for its agents and to discipline its employees for actions that violate its Zero Tolerance Policy on slamming. We believe this will encourage AT&T to monitor the actions of its agents and employees more closely. We also support AT&T's proposal to verify 100% of LOAs received through face to face marketing. We believe this will allow AT&T to better evaluate the information on the LOA to reduce the occurrence of forgery. In addition, we support AT&T's proposal to provide a "warm transfer" of slamming calls from the Commission Consumer Affairs offices directly to the new AT&T Slamming Resolution Centers. We believe this will allow for expedited resolution of those consumer complaints. Furthermore, we support AT&T's proposal to continue deployment of "AT&T Branding/Time At Destination" offering on 1+ calls. We believe this will enable consumers to know immediately if an unauthorized change has occurred. Finally, we support AT&T's proposal to help educate Florida consumers on the issue of slamming and make them aware of AT&T's new Slamming Resolution Centers. We believe this will

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educate the consumers on the issue of slamming and enable the customer to resolve his concerns in an expedited manner.

The company has satisfactorily addressed our concerns. Therefore, we conclude that the terms of the settlement agreement as summarized in this recommendation are fair and reasonable, and that the voluntary contribution to the General Revenue Fund pursuant to Section 364.285(1), Florida Statutes, in the amount of \$300,000 is appropriate. Accordingly, we approve AT&T's offer of settlement.

Based on the foregoing, it is

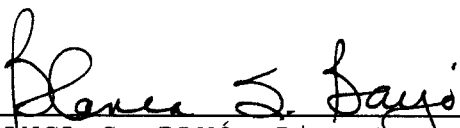
ORDERED by the Florida Public Service Commission that the December 21, 1998, offer of settlement by AT&T Communications of the Southern States, Inc. and d/b/a Connect 'N Save is hereby approved. It is further

ORDERED that AT&T Communications of the Southern States, Inc. and d/b/a Connect 'N Save, shall provide a monthly report to the Commission until the total amount of \$200,000 for consumer education is expended. It is further

ORDERED that AT&T Communications of the Southern States, Inc. and d/b/a Connect 'N Save shall make a voluntary contribution in the amount of \$300,000 to the Florida Public Service Commission for deposit in the General Revenue Fund of the State of Florida within five days of this Order becoming final. It is further

ORDERED that this docket shall remain open to receive monthly reports of the expenditures for consumer education regarding slamming.

By ORDER of the Florida Public Service Commission this 3rd day of March, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

CB

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

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Vice President - Florida

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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

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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 16th 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

MEMORANDUM

March 2, 1999

RECEIVED-FPSC

99 MAR -3 AM 11:21

RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

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

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.

99-0433-AS

Attached is an:

ORDER APPROVING SETTLEMENT

with attachment, to be issued in the above-referenced docket.
(Number of pages in order - 7)

CB/slh
Attachment
cc: Division of Communications
I:971492or.cb

ATTACHMENT(S) NOT ON-LINE

3-mailed

RAR

Requisition for Photocopying and Mailing

Date 3/5/99 Number of Originals 14 Requested By [Signature] Copies Per Original 14

Item Requested H-0133 Order No. 274472 Agenda For (Date) _____ In Docket No. _____

Notice of _____ For (Date) _____ In Docket No. _____ Other _____

Special Handling Instructions _____

Number	Distributed/Mailed To	Commission Office	Docket Mailing List - Mailed	Docket Mailing List - Forward
(3)				
14				

Note: Items must be mailed and/or returned within one working day after issue unless specified here.

Final Shop Verification Verified By [Signature] Job Number 26

Date and Time Completed 3/5 Job Checked For Correctness and Quality (Initial) [Initials]

Mail Room Verification Verified By [Signature] Date Mailed [Signature]