BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed Amendments to Rule 25-4.110, F.A.C., Customer Billing for Local Exchange Telecommunications Companies.	)	Docket No. 990994-TP Filed: October 5, 1999

AT&T's Post-Workshop Comments

AT&T Communications of the Southern States, Inc. (AT&T) hereby files its post-workshop comments on the draft rules circulated by the Staff of the Florida Public Service Commission.

Rather than prescribe specific (and costly) bill formats, the Commission should adopt the following standards, which each company could meet in the way most compatible with its current billing processes and systems:

- Bills should be organized to be readable and present important information clearly and conspicuously;
- Bills should include full and non-misleading descriptions of all charges; and
- Bills should clearly and conspicuously disclose all information necessary for consumers to make inquiries about charges on their bills.

In so doing, the Commission must carefully balance appropriate consumer protection against the consumer benefits of a fully competitive market, avoiding overly burdensome and expensive regulation, which would affect the ability of carriers to serve Florida consumers. Additionally, rules adopted in this docket must be narrowly drawn to deal with specifically identified problems, with careful consideration given to the expense which burdensome regulations will impose on the telecommunications industry.

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APP
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AT&T makes the following comments on individual draft rules:

25-4.003 Definitions

AT&T has no objection to the proposed definitions for "billing party" or "originating party." AT&T agrees with GTE that the proposed definition of "information service" is too broad. It is somewhat vague, in that it appears to suggest that other types of services may be deemed information services, but provides no way for companies to determine what those services may be. If the Commission later identifies a specific service as an information service, the definition could be amended. AT&T suggests the following revision to the definition:

(19) "Information Service." Telephone calls made to 900 or 976 ~~type~~ services, but not including ~~does not include~~ Internet services.

25-4.110 Customer Billing

Applicability to ALECs:

BellSouth has suggested that all sections of this rule should apply to ALECs, while the Staff draft would apply only newly-added subsection (2) to ALECs.[1] AT&T and other ALECs strongly oppose the extension of LEC rules to ALECs. It appears likely that Staff, the Public Counsel and industry members will reach consensus on a number of issues in this docket, but inclusion of this issue unnecessarily will complicate and delay this rulemaking proceeding.[2] BellSouth also suggested

[1]Subsections (10), (11), (12) and (13) apply to ALECs and IXCs by incorporation in Rules 25-24.490 and 25-24. 845, respectively, and would continue to apply as re-numbered.

[2]If BellSouth wishes to pursue this matter, a separate rulemaking proceeding would be more appropriate.

modification of subsection (1) to allow customers the option to receive bills at greater than monthly intervals. This subsection applies only to LECs, so it would best be handled in connection with such a rulemaking proceeding or by petition for waiver of the requirement.

Subsection (a): AT&T suggests that the language shown below expresses the consensus reached at the workshop, which would allow bills to display the toll-free customer service number of the originating party or its authorized agent; allow increased flexibility in locating the toll-free number, and would eliminate the requirement to denote "new" service providers by boldface type.

> (a) There shall be a heading for each originating party which is billing to that customer account, for that billing period. The heading shall clearly and conspicuously indicate ~~provide~~ the originating party's name. If the originating party is a certificated telecommunications company, the certificated name must be shown. The toll-free customer service number of the originating party or its agent must be clearly displayed. ~~Any originating party not appearing on the previous bill for that customer account must be denoted in conspicuous bold face type.~~ For purposes of this subparagraph, an agent is a person or entity that acts for an originating party pursuant to the terms of a written agreement. The scope of such agency shall be limited to the terms of such written agreement.

Subsection (2)(c)1 requires companies to separate charges into three categories of service and label them as Florida Regulated, Federal Regulated, or Nonregulated. This requirement would be

excessively costly to implement, particularly for companies that have national billing systems, and would be confusing to billing parties as well as consumers. For example, it is not clear how billers should classify 900 calls, which logically could be placed under any of the three categories.[3] It also is not clear that this information will be helpful to consumers.

Other charges (such as a monthly minimum fee in connection with a long distance plan) are imposed in connection with rate plans that allow customers to place both interstate and intrastate calls at specified rates, yet are not apportioned as "federal" or "state" for billing purposes. Placing such charges in one or the other category would be misleading to consumers because it would not accurately describe the charge. Dividing the charge between two categories, on the other hand, could lead customers to assume, mistakenly, that they are separate charges for separate services. This requirement raises significant First Amendment issues, may limit the ability of companies to provide integrated bundles of services that customers desire, and should be deleted.

In order to comply with this rule, long distance companies would have to separate out intrastate from interstate calls and place them under different subheadings, although there has been no suggestion that the current format has ever proven misleading or confusing to consumers. Again, the likely result is longer, more confusing bills and greater expense.

AT&T suggests the following alternate language:

> (c)1. Taxes, fees and surcharges must be shown ~~immediately below the following distinct subheadings~~ under each originating party

[3] The FCC, Federal Trade Commission and Florida PSC rules govern many aspects of 900 service, yet such charges are usually considered "nonregulated".

heading. Companies shall provide customers with information regarding such taxes, fees and surcharges upon request.

~~a. Taxes and Fees for Florida Regulated Service;~~

~~b. Taxes, Fees, and Surcharges for Federal Regulated Service; and~~

~~c. Taxes, Fees and Surcharges for Nonregulated Service.~~

Subsection (2)(c)2 requires companies to itemize taxes for "Florida Regulated Services" under seven specified categories. This requirement would be inordinately expensive to implement, particularly for companies with national billing systems, and also raises First Amendment issues.[4] Florida bills would require separate programming and processing, the cost of which ultimately would be passed to Florida consumers. The resulting complexity would serve to make bills more confusing. As discussed at the workshop, the taxes themselves are confusing to consumers, and longer, more complicated bills will prove even more confusing. Both Staff and OPC mentioned that GTE's bills were helpful, yet Ms. Caswell stated that GTE had to discontinue the bill format because it caused too much confusion to customers.

AT&T believes that the suggested customer information requirement in Subsection (2)(c)(1) renders this proposed requirement unnecessary, and it should be deleted.

Subsection (2)(c)3: AT&T does not object to the requirement that companies use terminology for taxes, fees and surcharges associated with Federal Regulated Services that is

[4]This requirement further conflicts with the requirements of some municipalities that specify how municipal taxes must appear on customer bills.

consistent with that developed by the FCC. In the absence of FCC-developed terminology, however, the rule requires companies to use Commission-imposed names for these federally-mandated charges. The imposition, collection and naming of these charges are beyond the Commission's jurisdiction.[5] Additionally, this requirement interferes seriously with companies' First Amendment right to communicate with their customers, and also would be inordinately expensive, particularly for companies with national billing systems. Again, Florida bills would require separate programming and processing, the cost of which ultimately would be passed to Florida consumers.

AT&T suggests the following changes to this subsection:

(c) ~~2. Taxes and Fees for Florida Regulated Services must use the following standard terminology:~~

~~a. County Franchise Fees;~~

~~b. Municipal Franchise Fees;~~

~~c. County Local Option Sales Tax;~~

~~d. County Utility Tax;~~

~~e. Municipal Utility Tax;~~

~~f. Florida Gross Receipts Tax; and~~

~~g. Florida Sales Tax.~~

[5] Although the FPSC has no authority to impose naming conventions on federally-mandated charges, AT&T notes that the names included in this subsection do not appear to be in common use. Additionally, the proposed term "Federal Long Distance Access Fee" is incorrect and misleading. Access fees are imposed by LECs upon IXCs for access and use of local lines; as such, they are fees for local access, not fees for long distance access.

2 ~~3~~. The terminology for Federal Regulated Service Taxes, Fees, and Surcharges must be consistent with FCC terminology. If the FCC has not developed standard terminology, descriptive terms must be used which are not misleading. ~~then following terms must be used:~~

~~a. Federal Long Distance Access Fee;~~

~~b. Federal Universal Service Fee;~~

~~c. Federal Number Portability Fee;~~

~~d. Federal Excise Tax~~

Subsection (2)(d): This subsection requires bills to include the statement "Written itemization of local billing available upon request." As discussed at the workshop, this language inadvertently could confuse customers rather than enlighten them. If the customer's bill already includes written itemization of all charges, customers would be led to believe that there is additional information available, when in fact no additional information exists. This message also could be confusing to customers who have selected product offerings that do not include itemization, typically in return for a special rate. Several such products were described at the workshop. Rule provisions that cause customer confusion will generate more calls to company business offices – a result that OPC cautioned against.

Customers who desire additional bill information typically call their telecommunications providers for information, using the toll-free number printed on the bill. Thus, AT&T believes

that the itemization notice is unnecessary and suggests that the requirement be deleted.

Subsections (15) and (16): These existing subsections impose notification requirements on companies. When these requirements were instituted, they were intended to apply only to companies that bill customers for local service. At the workshop, Staff agreed that the rules should be clarified to specify this intent. AT&T suggests the following language.

> (15) Companies that bill for local service must notify customers ~~The customer must be notified~~ via letter or on the customer's first bill and annually thereafter that a PC Freeze is available.
>
> (16) Companies that bill for local service must give notice to customers ~~The customer must be given notice~~ on the first or second page of the customer's next bill in conspicuous bold face type when the customer's provider of ~~local,~~ local toll, or toll service has changed.

AT&T suggests removal of the requirement that local billers notify customers that their local provider has changed, as shown above. The new local provider will issue its own bill, thereby notifying customers of the change, and the previous local provider will simply issue a final bill. It would be unfair to require the former service provider to notify customers of the change.

CIC Assignment:

BellSouth proposed that Subsection (16) should be amended to mandate Carrier Identification Code (CIC) assignment and use for all providers of local or toll services, because

BellSouth's system identifies a change in carriers by a CIC change. This proposal would require revamping of the nationwide CIC system to allow the use of either 4-digit CICs or sub-CICs, which simply is not feasible at this time. The Commission should not consider this requirement until 4-digit CICs actually become available.

25-4.113 Refusal or Discontinuance of Service by Company.

Some parties were concerned that the language proposed by Staff – which attempted to detail the specific charges that must be paid in order to avoid disconnection of Lifeline service – was either too broad or not broad enough. AT&T suggests that it is appropriate to use the statutory term "basic local telecommunications service" to describe the type of service for which charges must be paid in order to avoid disconnection. Although this is not as descriptive as Staff's proposed language, AT&T believes it is readily understandable and easily implemented, and can be amended later if experience shows specific changes are needed.

Although Lifeline local service cannot be disconnected for failure to pay toll charges, there appeared to be a workshop consensus that companies should be able to block toll services to Lifeline customers if toll charges were not timely paid. AT&T suggests the following revisions to Staff's proposal:

(f) * * *

A company shall not . . . discontinue a customer's local Lifeline service if the charges, taxes, and fees applicable to basic local telecommunications service ~~dial tone, local usage, dual tone~~

~~multifrequency dialing, emergency services such as "911," and relay service~~ are paid. Companies may, however, block toll services to Lifeline customers if charges, taxes and fees for toll services are not timely paid.

* * *

25-4.114 Refunds

At the workshop, there was a consensus among the parties, including the Office of Public Counsel, that the rule should not be amended as proposed. The costs associated with this revision would be enormous, but as OPC pointed out, the interest refunded to customers usually would not be a meaningful amount. The Commission should continue to review each case to determine whether to order refunds with interest.

New rules proposed by Public Counsel

AT&T believes that OPC's proposals show great promise, and could form the basis for rules that would be supported by the industry. Many parties at the workshop appeared to share this opinion. Charges not covered by the rule should be clarified as shown below. A copy of AT&T's suggestions has been shared with OPC as well as several other workshop participants. No agreement has been reached at this point, but it appears that the positions of OPC and AT&T are very close, with the possible exception of 900/976 charges.

AT&T believes the rules should not require removal of charges or bill blocking for telecommunications services that customers access by dialing, including 900/976 charges. If such charges must be removed from the bill or blocked, customers repeatedly could dial 900/976 calls while opting not to receive a bill from their telecommunications service provider. The 900 provider could send a bill to the customer but would be powerless to stop the consumer from making further calls. The local service provider – which would be uninvolved with the issue once such charges were removed or blocked – would have no incentive to initiate 900 blocking. It is not clear whether the local provider would or could block all 900 access at the request of a single 900 provider, particularly since the local provider would not be billing for that 900 provider.

AT&T is aware of no cases in which 900/976 calls were billed to customers without such calls being made, and existing customer protections (which require bill adjustments for non-receipt of price advertisement, misrepresentation, customer confusion, poor quality and so forth) are sufficient to protect customers whose expectations were not met.

Applying these provisions to 900/976 calls would increase, rather than reduce, the problems associated with such calls. Additionally, this requirement is inconsistent with Section 364.604(3), which requires billing parties to provide a free option to block 900/976 calls, not 900/976 charges.

Customer Option to Remove Charges from Bill.

(1) If a residential customer notifies a billing party that he did not order an item appearing on his bill or that he was not provided a service appearing on his bill, the billing party shall promptly provide the customer a credit for the item and remove the item from the customer's bill. This requirement, however, does not apply to the following charges:

(a) charges that originate from the billing party or an affiliate of the billing party,
(b) charges that originate from a governmental agency,
(c) charges that originate from the customer's presubscribed local, intraLATA or interLATA carriers,
(d) charges that result from acceptance of collect calls or third party charges,
(e) charges that are subject to the terms of Rule 25-4.119,
(f) charges for telecommunications services accessed by customer dialing, such as directory assistance, operator services and 10-10-XXX or other dial-around service.

(2) Nothing in this section prohibits an originating party from billing customers directly.

Customer Option to Restrict Billing.

(1) Upon request from any residential customer, a billing party must restrict charges in its bills to only the following:

(a) charges that originate from the billing party or an affiliate of the billing party,
(b) charges that originate from a governmental agency,
(c) charges that originate from the customer's presubscribed local, intraLATA or interLATA carriers,
(d) charges that result from acceptance of collect calls or third party charges,
(e) charges that are subject to the terms of Rule 25-4.119,
(f) charges for telecommunications services accessed by customer dialing, such as directory assistance, operator services and 10-10-XXX or other dial-around service.

(2) Customers must be notified of this right by billing parties each time that a customer notifies a billing party that the customer's bill contained charges for products or services that the customer did not order or that were not provided to the

customer. In addition, companies that bill customers for local service must notify customers annually.

(3) Nothing in this section prohibits originating parties from billing customers directly, even if a charge has been blocked from a billing party's bill at the request of a customer.

25-4.119 Information Services

Subsection (2): This subsection should be clarified to indicate that the LEC must place contract or tariff obligations upon the originating party. As presently written, the rule implies that the LEC must monitor activities of the 900/976 provider.

(2) LECs who have a tariff or contractual relationship with an originating party or its agent shall not provide transmission services or billing services, unless the LEC tariff or contract requires the originating party to do ~~does~~ each of the following:

Subsection (2)(i) and (j): AT&T can locate no statutory authority for the prohibition against billing for information service providers who fail to obtain third party verification of service requests or who do not follow the very specific telephone answering practices required in subparagraph (j). AT&T therefore reserves the right to comment further on this issue in the event any such authority is identified. Generally, however, these sections are beyond the Commission's jurisdiction, in that they seek to impose specific verification obligations on persons not regulated by the commission. Subparagraph (i) is especially overreaching in regard to payment by unregulated parties to other persons outside the commission's jurisdiction. Both of these paragraphs should be deleted.

Additionally, the requirement that a new information service provider's toll-free number appear on the customer's first bill is unnecessary, since Rule 25-4.110(2)(a) requires all originating parties to provide, and billing parties to include on customer bills, a toll free number for each originating party that bills a customer.

Subsection (3) requires billing parties to offer subscribers the option to be billed only for regulated telecommunications products and services, and to share these customers' telephone numbers with parties for whom the billing party bills. This requirement is problematic for a number of reasons.

First, the rule concentrates on blocking the billing function, rather than blocking use of the service. It is enormously more efficient and cost-effective to block the ability to place 900/976 calls than it would be to implement the practice outlined in the rule, which is discussed in connection with the rules proposed by OPC. The rule would increase problems associated with 900/976 calls, rather than reduce them. Additionally, the requirement is inconsistent with Section 364.604(3), which only requires billing parties to provide a free option to block 900/976 calls.

Also, it is not clear what charges could and could not be billed if a customer elected the "no-bill" option, since there is no general agreement about what constitutes a "regulated service."

The requirement that billing parties share with their contract billing and collection customers the telephone numbers of subscribers electing the blocking option is particularly troublesome and raises serious concerns about customer privacy. Telecommunications companies go to great lengths to protect the privacy of their customers, and in fact are prohibited from revealing such information

by the terms of Section 364.24(2), F.S. Further, customer records are confidential and proprietary business information, which is protected from disclosure.

Subsection (4)(a): The requirement to "automatically adjust charges" upon a customer's assertion that s/he has no knowledge of the charges or what they were for is not only unnecessary, but can be expected to increase fraud and uncollectibles. It is all to common to find that a member of a household who made 900/976 calls, initially denied knowledge of the charges when the bill arrived. AT&T is aware of no cases in which 900/976 calls were billed to customers without such calls being made, and existing customer protections (which require bill adjustments for non-receipt of price advertisement, misrepresentation, customer confusion, poor quality and so forth) are sufficient to protect customers whose expectations were not met.

Subsection (6): Telecommunications companies currently are prohibited from attempting to collect for disputed 900/976 charges. The proposed revision to this section is overly broad, in that it would extend the prohibition to originating parties and their agents that are not telecommunications companies, and who therefore are not regulated by the Commission. AT&T believes that Staff agreed to remove this requirement, and suggests the following language:

> (6) Telecommunications companies ~~LECs and originating parties or its agents~~ billing Information Service charges to a customer in Florida shall not:

Subsection (8): While AT&T agrees that originating parties, rather than billing parties, should be responsible for resolving customer's complaints, this rule attempts to impose very

specific validation requirements on originating parties, most of whom are beyond the Commission's jurisdiction. AT&T suggests the deletion of all proposed language except the first sentence.

Subsection (9): It is AT&T's understanding that Staff intends to withdraw this provision.

Conclusion

AT&T appreciates the opportunity to work with Staff and the telecommunications industry in this rulemaking proceeding.

Marsha E. Rule
AT&T Communications of the Southern States, Inc.
101 North Monroe Street, Suite 700
Tallahassee, Florida 32301
(850) 425-6365

ATTORNEY FOR AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC.

CERTIFICATE OF SERVICE
DOCKET 990994-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via U.S. Mail to the following parties of record on this 5th day of October, 1999:

Diana Caldwell
FPSC
2540 Shumard Oak Blvd.
Room 370
Tallahassee, FL 32399-0850

Florida Competitive Carriers Assoc.
Post Office Box 10967
Tallahassee, FL 32302

Nancy B. White
c/o Nancy Sims
BellSouth Telecommunications, Inc.
150 S. Monroe, Suite 400
Tallahassee, FL 32301

Joseph A. McGlothlin
Vicki Gordon Kaufman
McWhirter, Reeves, McGlothlin,
Davidson, Rief & Bakas, P.A.
117 S. Gadsden St.
Tallahassee, FL 32301

Marsha Rule

Marsha E. Rule

Donna Canzano McNulty
MCI WorldCom
325 John Knox Rd, Suite 105
Tallahassee, FL 32303

Kimberly Caswell
GTE Florida Incorporated
P.O. Box 110, FLTC0007
Tampa, FL 33601-0110

Michael Gross
FCTA
310 N. Monroe St.
Tallahassee, FL 32301

Charles J. Beck
Deputy Public Counsel
Office of the Public Counsel
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400